

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

SCOTT COOK,
Charging Party,

HRB CASE NO. 0200177

-v-

REMAND ORDER

MONTANA DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES -
MONTANA STATE HOSPITAL,
Respondent.

Charging Party, Scott Cook (Cook), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of race and color. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Cook's allegations that Respondent, Montana Department of Public Health and Human Services - Montana State Hospital (MSH), discriminated against Cook. The Department issued a Notice of Dismissal. Cook filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 23, 2020. No oral argument was requested for this hearing.


The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Mont. Code Ann. § 49-2-511(2); Admin. R. Mont. 24.9.121(5). After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion in that the Investigator's analysis was incorrect. The existing record showed facts which support reasonable cause to believe that Mr. Cook was subject to a hostile work environment even if he did not hear the racist and discriminatory words firsthand. Therefore, pursuant to Mont. Code Ann. § 49-2-511(1)(c), the

Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings under Mont. Code Ann. § 49-2-505.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had found cause. *See* Mont. Code Ann. § 49-2-504(2)(b).

IT IS HEREBY ORDERED, that Scott Cook's objection is **SUSTAINED**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 21st day of December 2020.

A handwritten signature in black ink, appearing to read "Timothy A. Tatarka". The signature is written in a cursive, flowing style with some loops and flourishes.

Timothy A. Tatarka, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 21st day of December 2020.

Scott Cook
2316 Pine Street
Butte, MT 59701

Kenneth E. Varns
Office of Legal Affairs
Department of Public Health and Human Services
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Annah Howard, Legal Secretary
Montana Human Rights Bureau