

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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JACKIE CORNELISON,  
Charging Party,

HRB CASE NO. 0200185

-v-

REMAND ORDER

MONTANA DEPARTMENT OF  
CORRECTIONS,  
Respondent

\*\*\*\*\*

Charging Party, Jackie Cornelison (Cornelison), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of disability and retaliation. Following an informal investigation, the Department determined that Cornelison did not file a timely complaint of discrimination, and dismissed the complaint of discrimination against Respondent, Montana Department of Corrections, pursuant to § 49-2-501(5), MCA. The Department issued a Notice of Dismissal. Cornelison filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 20, 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. Section 49-2-511(2), MCA. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. The parties do not dispute, and the Commission agrees, that the Investigator did not properly calculate the Cornelison's deadline for filing his complaint with the Department. Cornelison filed a grievance regarding his May 1, 2019 termination pursuant to the relevant collective bargaining agreement, and the grievance process concluded in October 2019. Because the grievance process concluded more than 120 days after the alleged discriminatory practice occurred or was discovered, pursuant to § 49-2-501(4)(b), MCA, Cornelison's February 24, 2020 complaint was timely filed within 300 days of the alleged discriminatory

practice. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings pursuant to § 49-2-505, MCA.

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 § 49-2-504(2)(b), MCA.

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

DATED this 21<sup>st</sup> 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.

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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 21<sup>st</sup> day of December 2020.

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Annah Howard, Legal Secretary  
Montana Human Rights Bureau