

BEFORE THE MONTANA DEPARTMENT
OF LABOR AND INDUSTRY

IN THE MATTER OF HUMAN RIGHTS BUREAU CASE NO. 0081012644:

KANDIS S. HARLOW,)	Case No. 1811-2008
)	
Charging Party,)	
)	
vs.)	ORDER DISMISSING
)	
T. K. NORTHWEST LLC,)	
)	
Respondent.)	

* * * * *

On July 16, 2008, charging party Kandis Harlow amended the instant complaint to allege as the true respondent T. K. Northwest LLC. On August 12, 2008, the Deer Lodge County Sheriff's Office attempted service on the respondent's statutory agent at his only known location, 509 E. Park, Anaconda, Montana, and could not locate the agent. The agent has left Anaconda, Montana and fled to Mexico. Efforts to track down the proprietors of T. K. Northwest, LLC., have also been unsuccessful as they cannot be located in the state of Montana.

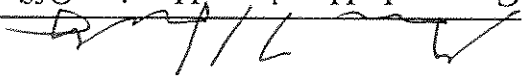
The hearing officer scheduled a telephone conference with the charging party on Friday, August 15, 2008, to inform her of the situation and the department's inability to proceed because the respondent and its principals and agency had absconded. For reasons unknown to the hearing officer, the charging party did not appear for that conference. The hearing officer left a message for the charging party to contact the Hearings Bureau, but she did not do so.

Mont. Code Ann. §49-2-512 requires that proceedings in this administrative law forum be concluded if more than 12 months have elapsed since the filing of the complaint and a hearing has not been held. The department may refuse to dismiss the complaint only if the opposing party has been served with notice of the hearing and more than 30 days have elapsed or if the parties have stipulated to an extension of the 12 month time frame prescribed in Mont. Code Ann. §49-2-512.

The complaint in this matter was filed on September 24, 2007 and the 12 month time frame expires on September 23, 2008. The respondent cannot be located to be served nor can the respondent be timely served by publication. Because of this, the hearing cannot be held within the 12 month time frame. Therefore, in conformity with the dictates of Mont. Code Ann. §49-2-512, this matter must be dismissed.

Because this matter is being dismissed due to the inability to hold a timely hearing, the charging party has the right to pursue her claim in district court (which has the ability to award attorney's fees in these proceedings). Mont. Code Ann. §49-2-512 (3). PLEASE NOTE: Rights to review of this dismissal, including rights of the charging party to commence a civil action in district court, are set forth on page three following. The failure to timely exercise those rights will render this decision final and bar this claim.

DATED this ^{30th} day of August, 2008.



Gregory L. Hanchett, Hearing Officer
Hearings Bureau

NOTICE OF REVIEW RIGHTS

Pursuant to Mont. Code Ann. § 49-2-511, dismissal of this complaint is final unless a party seeks review by filing written objections with the Human Rights Commission within 14 days after the decision is served on the party.

IF YOU WISH TO FILE OBJECTIONS TO THIS DISMISSAL, you must file an original and six (6) copies of your objections by September 16, 2008, at the following address: Katherine Kountz, Bureau Chief, Human Rights Bureau, P.O. Box 1728, Helena, MT, 59624-1728.

The Commission's procedures for considering an objection to a dismissal of a complaint are explained in Montana Administrative Rule 24.9.1714. The objection and any briefs must include a certificate of service showing that a copy of the objection and briefs were served on other parties of record. Briefs regarding an objection are not required; however, if briefs are filed, an original and six (6) copies must be provided to the Bureau and copies must be served on other parties of record. A party who files an objection and wishes to file a supporting brief must file and serve the brief within five (5) days of filing the objection. Any opposing party who wishes to file an answer brief must file and serve the brief within ten (10) days of service of the initial brief. A party making an objection who wishes to file a reply brief must file and serve the brief within ten (10) days of service of an answer brief.

Consideration of an objection will be based upon the written record unless oral argument is requested and authorized by the Commission. The Commission will review an objection under an abuse of discretion standard.

IF THE CHARGING PARTY WISHES TO INITIATE PROCEEDINGS IN DISTRICT COURT, the charging party must petition the district court in the district in which the alleged violation occurred for appropriate relief. **THE PETITION MUST BE FILED WITHIN NINETY (90) DAYS OF THE RECEIPT OF THIS NOTICE UNLESS OBJECTIONS TO THIS DISMISSAL ARE TIMELY FILED. IF OBJECTIONS ARE TIMELY FILED, THE CHARGING PARTY WILL HAVE NINETY (90) DAYS FROM A FINAL ORDER OF THE HUMAN RIGHTS COMMISSION AFFIRMING THE NOTICE OF DISMISSAL. IF THE CHARGING PARTY FAILS TO FILE THE PETITION IN DISTRICT COURT WITHIN THE NINETY (90) DAY PERIOD, THE COMPLAINT IS BARRED AT BOTH AT THE ADMINISTRATIVE LEVEL AND IN DISTRICT COURT.**

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

KANDIS HARLOW

422 BIRCH ST

ANACONDA MT 59711

DATED this ^{28th} day of August, 2008.



Harlow Order Dismissing