

**BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA**

LISA WILLIAMS,

Charging Party,

-v-

JOE LOWTHER INSURANCE AGENCY,

Respondent.

Cause No. 0041010741

**ORDER AFFIRMING FINAL AGENCY
DECISION**

On March 7, 2005, the Department of Labor and Industry's Hearings Bureau issued a Final Agency Decision in the above-entitled matter. Respondent, Joe Lowther Insurance Agency, submitted objections and requested oral argument. The Commission considered the matter on May 17, 2005. John Amsden appeared on behalf of Respondent, Joe Lowther Insurance Agency (Lowther). Phillip Oliver appeared on behalf of Charging Party, Lisa Williams (Williams).

At the hearing before the Commission, Respondent Lowther argued Charging Party Williams failed to establish that actions taken by her employer violated discrimination law. Respondent Lowther asserted that Joe Lowther terminated Williams because of a failed consensual relationship that resulted in a decline in business. Charging Party Williams could not prove she had been treated differently based on her protected class status of gender. Respondent Lowther noted the hearings officer did not allow expert testimony that would have shown the decision made by Lowther was an appropriate response in the corporate world. Further, Respondent argued the law requires Williams to mitigate her damages and she failed to do so.

In response, Charging Party Williams argued this case is about an employer that followed through on a threat to terminate employment if an employee did not continue a consensual relationship. Charging Party Williams then argued case law presented by Respondent is distinguishable and it should not be considered persuasive. Williams asserted there is case law from other jurisdictions that follows the holding in this case.

In discussion, the Commission noted that, in the end, this is still an employment relationship. Joe Lowther was Lisa Williams supervisor and, as the employer, Lowther's actions should not be excused simply because the office is smaller than others are. The employer failed to consider other options besides termination. Therefore, after careful and due consideration, the Commission concludes that the Final Agency Decision in this matter is supported by substantial evidence and complies with the essential requirements of the law. *Admin. R. Mont. 24.9.1717(2)*.

A person who has exhausted all administrative remedies available within an agency and who is aggrieved by a final decision in a contested case is entitled to file a petition for judicial review within 30 days after service of the final agency decision in the district where the petitioner resides or has the petitioner's principal place of business, or where the agency maintains its principal office. *See Mont. Code Ann. § 2-4-702*.

IT IS HEREBY ORDERED that Respondent's objection is overruled. The Commission **affirms** and adopts the Final Agency Decision issued by the Hearings Bureau.

DATED this ____ day of May 2005

Chair Franke Wilmer

CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on May ____ 2005.

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