

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

KEITH SMITH,)	
)	
Charging Party,)	Cause No. 0041010627
)	
vs.)	ORDER AFFIRMING
)	NOTICE OF DISMISSAL
)	
RAYMOND CORCORAN TRUCKING,)	
)	
Respondent.)	

On February 17, 2004, the Human Rights Bureau issued a Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to Sue in the above-captioned matter. Charging Party (Keith Smith) filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 21, 2004. Keith Smith appeared on his own behalf and Terry Seiffert appeared on behalf of Raymond Corcoran Trucking.

In the Final Investigative Report (FIR), the Human Rights Bureau Investigator determined a preponderance of the evidence did not support Keith Smith's assertion that Raymond Corcoran Trucking discriminated against him on the basis of disability or perceived disability. In the objection, Smith asserted he did not resign from his position following a non-work related injury in July 2000. Since he did not resign, Smith argues his employer should have allowed him to return to work. In response, Raymond Corcoran Trucking argued that Smith did resign and that Smith did not submit a full and complete application until November 2003, after it had decided not to fill the advertised position.

After careful and due consideration, the Commission concludes the findings of the Human Rights Bureau are supported by the record and, therefore, there was no abuse of discretion in the issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) and Admin. R. Mont. 24.9.1714(5)* If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Charging Party's objection is overruled. The Commission adopts the findings of the Human Rights Bureau and the notice of dismissal is affirmed.

Dated this _____ day of May, 2004.

Mr. Gary Hinoien, Chair
Montana Human Rights Commission

CERTIFICATE OF SERVICE

The undersign 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 ____ 2004.

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Montana Human Rights Bureau