BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

FLORENCE TUCKER,

Charging Party,

-v-

ROSEBURG FOREST PRODUCTS,

Respondent.

Case No.: 0041010923

ORDERAFFIRMING
FINAL AGENCY DECISION


At the hearing before the Commission, Tucker argued Roseburg arbitrarily enforced its policies. Tucker contended she was only given a verbal warning for a safety violation, whereas other younger employers were given formal written warnings. A written warning, Tucker noted, that was placed in her file unsigned. Tucker then asserted Roseburg failed to enforce its graduated disciplinary policy. Taken in light of numerous intimations by Roseburg employees that Tucker should consider retiring, it is Tucker’s position that Roseburg’s arbitrary enforcement of its policies reflected age discrimination.

In response, Roseburg contends that not everyone was rehired when it took over for Louisiana Pacific. Roseburg chose to hire Tucker at the age of 65 years of age and it fired Tucker at 65 years. Roseburg had no intention to discriminate against Tucker.
based on age, rather it was concerned that Tucker would harm herself or others. In the
hearings officer’s decision, it is noted that Tucker’s testimony is simply inconsistent
throughout these proceedings.

In discussion, the Commission noted that a review of the transcripts confirmed
the findings of the hearings officer that Tucker was perhaps cavalier in her attitude
toward her employer’s safety policies. 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 Charging Party’s objections are overruled. The
Commission affirms and adopts the Final Agency Decision issued by the Hearings
Bureau.

DATED this ____ day of September 2005

_________________________
Chair Franke Wilmer
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 _________ day of September, 2005.

HOWARD TOOLE
211 NORTH HIGGINS AVENUE #350
MISSOULA MT 59802

MAUREEN LENNON
GARLINGTON LOHN & ROBINSON
PO BOX 7909
MISSOULA MT 59807-7909

MARIEKE BECK
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF LEGAL SERVICES
PO BOX 1728
HELENA MT 59624-1728

__________________________________________
Montana Human Rights Bureau