

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

LARRY MORALEZ,

Charging Party,

-v-

CITY AND COUNTY OF BUTTE SILVER
BOW,

Respondent.

Case # 0081012882 & 0081012883

ORDER

Larry Moralez (Moralez) filed a complaint with the Department of Labor and Industry (Department) alleging that the City and County of Butte Silver Bow (Butte) discriminated against him on the basis of age and national origin when it did not hire him for one of four laborer positions or the position at the landfill. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Moralez's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Moralez filed an objection with the Montana Human Rights Commission (Commission).

The Commission considered the matter on November 19, 2008. James Harrington appeared and argued on behalf of Moralez. Thomas Welsch appeared and argued on behalf of Butte.

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. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Hearings Bureau pursuant to *§ 49-2-505, MCA*.

IT IS HEREBY ORDERED, that Larry Moralez's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau for hearing.

DATED this ____ day of December, 2008.

Chair Ryan Rusche
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 _____ day of December, 2008.

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