

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

DAVID OGDEN,

Charging Party,

-v-

CAPITAL ELECTRIC CONSTRUCTION  
COMPANY,

Respondents.

Case No.: 0051011379

**ORDER AFFIRMING AGENCY DECISION**

David Ogden (Ogden) filed a complaint with the Department of Labor and Industry asserting that Capital Electric Construction Company (Capital Electric) unlawfully discriminated against him on the basis of his disability when it refused to pay for the additional preemployment medical testing required by Deaconess Billings Clinic (Deaconess). The Hearings Bureau (Bureau) held a contested case hearing pursuant to § 49-2-505, MCA. Following the hearing, the Bureau issued a decision that determined Capital Electric did not discriminate against Ogden. Capital Electric filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 7, 2008. Thomas Towe appeared and argued on behalf of Ogden. Jason Ritchie appeared and argued on behalf of Capital Electric.

After careful and due consideration, the Commission concludes the Bureau's decision in this matter is supported by competent substantial evidence and the conclusions of law are correct. The Commission **affirms** the Bureau's decision and hereby adopts and incorporates the decision in its entirety.

A person who has exhausted all administrative remedies available within an agency and who is aggrieved by a final agency decision in a contested case is entitled

to file a petition for judicial review within 30 days after service of the final agency decision. Mont. Code Ann. § 2-4-702. The petition must be filed in the district where the petitioner resides or has the petitioner's principal place of business, or where the agency maintains its principal office.

DATED this \_\_\_\_ day of May, 2008.

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Ryan Rusche, Chair  
Human Rights Commission

## 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 \_\_\_\_\_, 2008.

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Montana Human Rights Bureau