

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

HEATHER PORTNER,

Charging Party

-v-

KLINGLER PROPERTIES, WARRIOR
AUTO WORKS, RUSSELL KLINGLER,
DARREN TRAVER,

Respondents

Case #'s 0071012376, 0071012377,
0071012379, and
0071012380

ORDER

Heather Portner (Portner) filed a complaint with the Department of Labor and Industry (Department) alleging that Klingler Properties, Warrior Auto Works, Russell Klingler, and Darren Traver discriminated against her by subjecting her to a sexually hostile work environment and by retaliating against her for filing a human rights complaint. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Portner's allegations of unlawful discrimination or retaliation by these respondents. The Department issued a Notice of Dismissal. Portner filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 10, 2008.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2)(a), MCA. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. The final investigative report does not indicate that any individuals besides the named parties were interviewed and there is no section discussing or listing witnesses. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Hearings Bureau pursuant to § 49-2-511(2)(c), MCA, and § 49-2-505, MCA.

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

DATED this ____ day of January, 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 January 2008.

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