

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

ELAINE MEEKS,

Charging Party,

-v-

POLSON SCHOOL DISTRICT 23,

Respondent.

Case # 0089013034

ORDER

Elaine Meeks (Meeks) filed a complaint with the Department of Labor and Industry (Department) alleging that Polson School District 23 (District) discriminated against her on the basis of her gender and age when she was reprimanded. She also argued the District retaliated against her when she complained about the unfair treatment she received. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Meeks's allegations of unlawful discrimination or retaliation. The Department issued a Notice of Dismissal. Meeks filed an objection with the Montana Human Rights Commission (Commission).

The Commission considered the matter on March 17, 2009. Elizabeth O'Halloran appeared and argued on behalf of Meeks. Megan Morris appeared and argued on behalf of the District.

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 as to the investigator's analysis of pretext related to retaliation. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Hearings Bureau pursuant to § 49-2-505, MCA.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had originally found cause. See § 49-2-504(2)(b), MCA.

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

DATED this ____ day of March 2009.

Chair Ryan C. 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 March 2009.

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