

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

KATHERINE SKUNK CAP,

Case # 0098013576

Charging Party,

ORDER

-v-

BROWNING PUBLIC SCHOOLS,

Respondent.

Katherine Skunk Cap (Skunk Cap) filed a complaint with the Department of Labor and Industry (Department) alleging that Browning Public Schools (Browning Schools) discriminated against her on the basis of her race and retaliated against her for filing an earlier complaint. Skunk Cap asserted that Browning Schools discriminated and retaliated against her when she was denied a mentor position, denied a committee chair position and given a verbal warning. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Skunk Cap's allegations. The Department issued a Notice of Dismissal. Skunk Cap filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 18, 2009. Roberta Cross Guns appeared and argued on behalf of Skunk Cap. Jeff Hindoien appeared and argued on behalf of Browning Schools.

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.

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 Katherine Skunk Cap's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau for hearing.

DATED this ____ day of February 2010.

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 February 2010.

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Montana Human Rights Bureau