

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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GERARD D'AQUIN o/b/o MARIE  
O'HANESON, GERAD D'AQUIN,  
INDIVIDUALLY, LAURA D'AQUIN AND  
JOHN JACQUES D'AQUIN,

Charging Party,

-v-

IMMANUEL LUTHERAN CORPORATION  
OF KALISPELL, MONTANA d/b/a  
IMMANUEL LUTHERAN HOME, JEFF  
EVANS, DR. ROBERT SHERRICK AND  
LINDA SHEARER,

Respondent.

Case No. 0109014091

ORDER

Gerard D'Aquin o/b/o Marie O'Haneson, Gerard D'Aquin, individually, Laura D'Aquin and John Jacques D'Aquin (collectively D'Aquin), filed a complaint with the Human Rights Bureau, Department of Labor and Industry (Department) alleging discrimination in public accommodation when Marie O'Haneson was denied services because of her disability, and was involuntarily transferred to another skilled nursing facility.

Following an informal investigation, the Department determined that a preponderance of the evidence did not support the allegations of unlawful discrimination. The Department issued a Notice of Dismissal. D'Aquin filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 22, 2010.

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

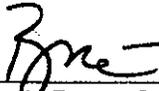
consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA.* If a charging party fails to commence a civil action within 90 days, their claims are time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA.* This review must be requested within 30 days of the date of this order.

IT IS HEREBY ORDERED, that the objection of Gerard D'Aquin o/b/o Marie O'Haneson, Gerad D'Aquin, individually, Laura D'Aquin, and John Jacques D'Aquins is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Immanuel Lutheran Corporation of Kalispell, Montana d/b/a Immanuel Lutheran Home, Jeff Evans, Dr. Robert Sherrick and Linda Shearer.

DATED this 16<sup>th</sup> day of October 2010.

  
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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 6<sup>th</sup> day of October 2010.

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Montana Human Rights Bureau