

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

STEPHAN DICOMITIS,

Case # 0101014134

Charging Party,

ORDER

-v-

UNITED PARCEL SERVICE,

Respondent.

Stephan Dicomitis (Dicomitis) filed a complaint with the Department of Labor and Industry (Department) alleging that United Parcel Service (UPS) discriminated against him in the area of employment on the basis of his disability. Following an informal investigation, the Department determined that the discrimination alleged by Dicomitis occurred more than 180 days before Dicomitis filed the complaint with the Human Rights Bureau. Section 49-2-501(4)(a), MCA, requires that a human rights complaint must be filed with the Department within 180 days after the alleged unlawful discriminatory practice occurred or was discovered. The Department issued a Notice of Dismissal.

Dicomitis filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 16, 2010. Dicomitis appeared and argued on his own behalf. Mike Manning appeared and argued on behalf of UPS.

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 was 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 of this Order is issued to file a complaint in the

district court 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, the claim is 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*. The review must be requested within 30 days of the date of this Order.

IT IS HEREBY ORDERED, that the objection of Stephan Dicomitis is **overruled**. The Commission **affirms** the determination of the Human Rights Bureau to dismiss the complaint against United Parcel Service.

DATED this ____ day of November 2010.

Signed By:
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 November 2010.

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Montana Human Rights Bureau