

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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KEVIN TRUMBLE,

Charging Party,

-v-

GLACIER WELL SERVICE INC,

Respondent.

Case No. 0081012948

**ORDER AFFIRMING  
AGENCY DECISION**

Kevin Trumble (Trumble) filed a complaint with the Human Rights Bureau, Department of Labor and Industry (Department) alleging that Glacier Well Service, Inc. discriminated against him in the area of employment on the basis of his disability.

Following an informal investigation, the Department determined that a preponderance of the evidence supported Trumble's allegations of unlawful discrimination. The Hearings Bureau (Bureau) held a contested case hearing pursuant to § 49-2-505, MCA. Following the hearing, the hearing officer determined liability and awarded damages on November 16, 2009. Trumble filed an appeal with the Montana Human Rights Commission (Commission). On May 5, 2010, the Commission issued an Order to Remand, which modified the hearing officer's findings of fact, corrected certain conclusions of law and remanded the case back to the Hearings Bureau for a determination of appropriate damages. The Hearing Officer Decision and Notice of Issuance of Administrative Decision on Remand was issued on August 18, 2010.

Trumble and Glacier Well Service, Inc. both appealed the Decision. The Commission considered the appeals on November 16, 2010. Phillip Hohenlohe appeared and argued on behalf of Kevin Trumble. Sarah Simpkins appeared and argued on behalf of Glacier Well Service, Inc.

## STANDARD OF REVIEW

The Commission may reject or modify the conclusions of law and interpretations of the administrative rules in the hearing officer's decision but it may not reject or modify the findings of fact unless the Commission first reviews the complete record and states with particularity in the order the findings that were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. *Admin. R. Mont. 24.9.123(4)*.

The Commission's standard of review for conclusions of law is whether the hearing officer's interpretation and application of the law is correct. See *Denke v. Shoemaker*, 2008 MT 418, ¶ 39, 347 Mont. 322, ¶ 39, 198 P.3d 284, ¶ 39.

## ORDER

After careful consideration of the complete record and the argument presented by the parties, the Commission determines that the findings of fact, conclusions of law and determination of damages issued by the hearing officer are based upon competent substantial evidence. The Commission affirms the Bureau's decision.

A party aggrieved by this Order is entitled to file a petition for judicial review within 30 days after service of this Order. *Sections 2-4-702 and 49-2-505(9), MCA.*

IT IS HEREBY ORDERED, that the appeal of Kevin Trumble is **denied**.

IT IS FURTHER ORDERED, that the appeal of Glacier Well Service, Inc. is **denied**.

The Commission **affirms** the Hearing Officer's Final Agency Decision and Notice of Issuance of Administrative Decision on Remand and hereby adopts and incorporates the Decision in its entirety.

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