

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

Tracee Raymond,

Charging Party,

-v-

Operating Engineers, Local 400,

Respondent,

Case No. 0091013835

ORDER

Charging Party, Tracee Raymond, (Raymond) filed a complaint on June 23, 2010, with the Human Rights Bureau, Department of Labor and Industry (Department), which alleged discrimination in employment on the basis of sex. Subsequent to filing this complaint, Raymond was discharged from her employment with the Operating Engineers, Local 400. Raymond amended her complaint to include a claim of retaliation for engaging in human rights activities.

Following an informal investigation, the Department determined that a preponderance of the evidence supported Raymond's allegations of unlawful discrimination and retaliation. The case went before the Hearings Bureau of the Department of Labor and Industry, which held a contested case hearing, pursuant to § 49-2-505, MCA. Prior to the hearing, the parties agreed to dismiss Raymond's initial claim of discrimination and adjudicate only the retaliation claim. Following the hearing, the hearing officer issued a decision on January 21, 2011. The hearing officer determined that Operating Engineers, Local 400, did not retaliate against Raymond by terminating her employment because the union demonstrated by a preponderance of the evidence that it had a legitimate, nondiscriminatory reason for discharging Raymond.

Raymond filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 18, 2011. David G Gillispie appeared and argued on behalf of Raymond. Karl J Englund appeared and argued on behalf of Operating Engineers, Local 400.

After careful and due consideration, the Commission concludes the decision of the hearing officer in this matter is supported by substantial evidence in the record and the conclusions of law are correct. The Commission unanimously **affirms** the Bureau's decision and hereby adopts and incorporates the decision in its entirety.

A person who has exhausted all administrative remedies available within an agency and who is aggrieved by a decision of the Human Rights Commission, following a contested case proceeding, is entitled to file a petition for judicial review within 30 days after service of the Commission's decision. Sections 49-2-505(9) and 2-4-702, MCA. The petition must be filed in the district where the petitioner resides or has the petitioner's principal place of business, or where the agency maintains its principal office.

DATED this 20th day of May 2011.



L.M. Minich, Chair
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 20th day of May 2011.

Daniel G. Gillispie
Gillispie Law Office
1925 Grand Ave., Suite 121A
Billings, MT 59102

Karl J. Englund
Attorney at Law
P.O. Box 8358
Missoula, MT 59807-8358



Tam Newby, Legal Secretary
Montana Human Rights Bureau