

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

Tanya Richem,

Case # 0101014524

Charging Party,

ORDER

-v-

Teton Medical Center,

Respondent,

Charging Party, Tanya Richem, (Richem) filed a complaint with the Department of Labor and Industry (Department) alleging that Respondent, Teton Medical Center, discriminated against her in employment on her basis of her physical and mental disabilities. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Tanya Richem's allegations. The Department issued a Notice of Dismissal. Tanya Richem filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 18, 2011. Philip A. Hohenlohe, attorney, appeared and presented oral argument on behalf of Tanya Richem. Roger T. Witt, attorney, appeared and presented oral argument on behalf of Teton Medical Center.

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 by a 4 to 1 vote that the determination of the Department to dismiss the complaint in this case is an abuse of discretion.

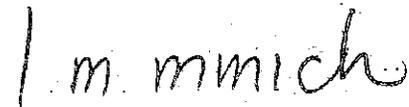
The Commission finds that the investigator failed to analyze whether the employer, Teton Medical Center, engaged in a good faith interactive process with Richem to determine appropriate and reasonable accommodations that would allow Richem to continue to work with her disabilities. The Commission also finds the investigator's analysis to have been inadequate and cursory regarding the "undue

hardship," which the employer asserted would result if certain accommodations suggested by Richem were allowed. In addition, the Commission finds the conflicting factual representations presented by the two parties warrant further scrutiny in the context of a contested case hearing. 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 found cause. See, § 49-2-504(2)(b), MCA.

IT IS HEREBY ORDERED, that Tanya Richem's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau of the Department of Labor and Industry for hearing.

DATED this 20th day of May, 2011.



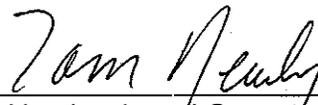
L.M. Minich, Chair
Human Rights Commission

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.

PHILIP A. HOHENLOHE
ATTORNEY AT LAW
PO BOX 1959
HELENA MT 59624

ROGER WITT
ATTORNEY AT LAW
PO BOX 1746
GREAT FALLS MT 59403-1746



Tam Newby, Legal Secretary
Montana Human Rights Bureau