

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

DARRYL MOORE,
Charging Party,

-v-

BNSF RAILWAY COMPANY,
Respondent,

HRB CASE # 0111014931

FINAL AGENCY DECISION

Charging Party, Darryl Moore (Moore), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of age and physical disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Moore's allegations that Respondent BNSF Railway Company, discriminated against Moore. The Department issued a Notice of Dismissal. Moore filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 19, 2012. No oral argument was requested for this hearing.

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 charging party chooses to commence a civil action in the 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 charging party fails to commence a civil action within 90 days, the 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 Moore's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against BNSF Railway Company.

DATED this 20th day of January 2012.

/s/ L.M. Minich
L.M. Minich, Chair
Human Rights Commission

