

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

LORI HAMNER,
Charging Party

HRB CASE NO. 0121015561

-v-

FINAL AGENCY DECISION

FUEL FITNESS OF BUTTE,
Respondent

Charging Party, Lori Hamner (Hamner), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in public accommodation on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Hamner's allegations that Respondent, Fuel Fitness of Butte, discriminated against Hamner. The Department issued a Notice of Dismissal. Hamner filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on June 14, 2013. Lori Hamner appeared and argued on her own behalf. K. D. Feedback appeared and argued on behalf of Fuel Fitness of Butte.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. In this case, the Commission concludes that Fuel Fitness simply did not provide the kind of individualized service that Hamner was seeking and the facility's overall compliance with the Americans with Disabilities Act was an issue placed before the Commission by this case. 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 a charging party chooses to commence a civil action in 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 a charging party fails to commence a civil action within 90 days, their 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. A party must promptly serve copies of a petition for judicial review upon the Human Rights Commission and all parties of record.

Section 2-4-702(2), MCA.

IT IS HEREBY ORDERED, that Lori Hamner's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Fuel Fitness of Butte.

DATED this 14th day of June, 2013.



Dennis M. Taylor, 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 17th day of June, 2013.

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Annah Smith, Legal Secretary
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