

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

\*\*\*\*\*

MATTHEW TUBAUGH,  
Charging Party

-v-

CITY OF LIVINGSTON POLICE  
DEPARTMENT,  
Respondent

HRB CASE NO. 0131016414

FINAL AGENCY DECISION

\*\*\*\*\*

Charging Party, Matthew Tubaugh (Tubaugh), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Tubaugh's allegations that Respondent, City of Livingston Police Department, discriminated against Tubaugh. The Department issued a Notice of Dismissal. Tubaugh filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 13, 2014. Matthew Tubaugh appeared and argued on his own behalf. Michael Lilly appeared and argued on behalf of City of Livingston Police Department.

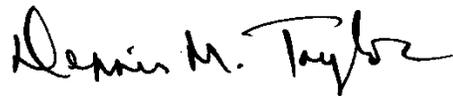
The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion. Therefore the objection is overruled.

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, 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. 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 Matthew Tubaugh's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against City of Livingston Police Department.

DATED this 15th day of May, 2014.



---

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 15th day of May, 2014.

MATTHEW TUBAUGH  
P.O. BOX 1751  
LIVINGSTON, MT 59047

MICHAEL LILLY  
BERG, LILLY & TOLLEFSEN, P.C.  
1 WEST MAIN STREET  
BOZEMAN, MT 59715



---

Annah Smith, Legal Secretary  
Montana Human Rights Bureau