BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

********************************

DANIELLE JONES,
Charging Party,

-v-

ALL STAR PAINTING, INC.
and NORMAN HODGES,
Respondent.

********************************

Charging Party, Danielle Jones, filed a complaint with the Department of Labor and Industry (Department), which alleged unlawful discrimination in employment on the basis of sex. Following an informal investigation, the Department determined that a preponderance of the evidence supported Jones’s allegations. The case went before the Office of Administrative Hearings of the Department of Labor and Industry, which held a contested case hearing, pursuant to § 49-2-505, MCA. The hearings officer issued a Decision on March 21, 2016. The hearings officer determined that Charging Party Danielle Jones had failed to prove that Respondents All Star Painting, Inc. or Norman Hodges had discriminated against her.


STANDARD OF REVIEW

The Commission may reject or modify the conclusions of law and interpretations of administrative rules in the hearing officer’s decision but may not reject or modify the findings of fact unless the Commission first reviews the complete record and states with particularity in the order that the findings of fact were not based upon competent substantial evidence or that the
proceedings on which the findings were based did not comply with essential requirements of law. Admin. Rules of Mont. 24.9.123(4). A factual finding is clearly erroneous if it is not supported by substantial evidence in the record, if the fact-finder misapprehended the effect of the evidence, or if a review of the record leaves the Commission with a definite and firm conviction that a mistake has been made. Denke v. Shoemaker, 2008 MT 418, ¶ 39, 347 Mont. 322, ¶ 39, 198 P.3rd 284, ¶ 39. The Commission reviews conclusions of law to determine whether the hearing officer’s interpretation and application of the law is correct. See, Denke, 39.

DISCUSSION

After careful consideration of the complete record and the argument presented by the parties, the Commission finds that the factual determinations made by the hearing officer are supported by substantial evidence in the record. While there may be disputes as to facts, hearing officers are entitled to deference as to credibility determinations, and no argument sufficient to overcome that deference was presented. Based on those facts, the conclusions of law of the hearing officer were correct, and the hearing officer decision is affirmed in its entirety.

ORDER

IT IS HEREBY ORDERED, that the appeal of Danielle Jones is overruled and the hearing officer decision is affirmed in its entirety.

Either party may petition the district court for judicial review of the Final Agency Decision. Sections 2-4-702 and 49-2-505, 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.

DATED this 22nd day of August, 2016.

Dennis M. Taylor, Chair
Montana 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 22nd day of August, 2016.

RYAN R. SHAFFER
ROBERT L. STEPANS
MEYER, SHAFFER & STEPANS, LLC
305 S. FOURTH STREET EAST, SUITE 101
MISSOULA, MT  59801

T. THOMAS SINGER
AXILON LAW GROUP, PLLC
P.O. BOX 987
BILLINGS, MT  59013-0987

Annah Howard
Annah Howard, Legal Secretary
Montana Human Rights Bureau