

**STATE OF MONTANA  
DEPARTMENT OF LABOR AND INDUSTRY  
HEARINGS BUREAU**

<b>IN THE MATTER OF THE WAGE CLAIM</b>	)	<b>Case No. 72-2004</b>
<b>OF CALVIN H. FERRELL,</b>	)	
<b>Claimant,</b>	)	<b>FINDINGS OF FACT;</b>
	)	<b>CONCLUSIONS OF LAW;</b>
<b>vs.</b>	)	<b>AND ORDER</b>
	)	
<b>MARK WEBBER d/b/a WEBBER PAINTING,</b>	)	
	)	
<b>Respondent.</b>	)	

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**I. FINDINGS OF FACT**

This matter proceeded to hearing on December 10, 2004. Calvin Ferrell represented himself. Mark Webber represented Webber Painting. During the hearing, the parties entered into a settlement agreement whereby Webber Painting agreed to pay Ferrell \$100.00 no later than two weeks after the date of this order. Ferrell indicated that he would agree to this amount because the balance of the money due to him as alleged in his complaint had been paid to him by Webber's client, Baxter Meadows Development. Webber agreed that he would pay the amount due within two weeks of his receipt of this order and further agreed that his failure to do so would result in the imposition of an administrative penalty in the amount of 110% in addition to the \$100.00 due to Ferrell.

**II. CONCLUSIONS OF LAW**

1. The State of Montana and the Commissioner of the Department of Labor and Industry have jurisdiction over this complaint. Mont. Code Ann. § 39-3-201 et seq. *State v. Holman Aviation* (1978), 176 Mont. 31, 575 P.2d 925.

2. In light of the facts adduced at the hearing and the parties' settlement entered into at the time of the hearing it is appropriate to order that Mark Webber, d/b/a Webber Painting pay \$100.00 to Calvin Ferrell in settlement of this claim.

3. In the event that Webber fails to pay the \$100.00 amount within the time specified by the order, then it is appropriate to order Webber to pay an additional 110% penalty, pursuant Mont. Code Ann. § 39-3-206, totaling \$110.00, to Ferrell.

**III. ORDER**

Mark Webber d/b/a Webber Painting is hereby ORDERED to tender a cashier's check or money order in the amount of \$100.00 made payable to Calvin Ferrell, and mailed to the Employment Relations Division, P.O. Box 6518, Helena, Montana 59624-6518, no later than 14 days after service of this decision. In the event that Webber fails to pay that amount within that time frame, then he shall tender a cashier's check or money order in the amount of \$210.00, representing \$100.00 in wages owed and \$110.00 in penalty, made payable to Calvin Ferrell, and mailed to the Employment Relations Division, P.O. Box 6518, Helena, Montana 59624-6518 no later than 30 days after service of this decision.

DATED this 17th day of December, 2004.

DEPARTMENT OF LABOR & INDUSTRY  
HEARINGS BUREAU

By: /s/ GREGORY L. HANCHETT

GREGORY L. HANCHETT  
Hearing Officer

NOTICE: You are entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 39-3-216(4), by filing a petition for judicial review in an appropriate district court within 30 days of service of the decision. See also Mont. Code Ann. § 2-4-702