

STATE OF MONTANA  
DEPARTMENT OF LABOR AND INDUSTRY  
HEARINGS BUREAU

IN THE MATTER OF THE WAGE CLAIM )	Case No. 1202-2010
OF JEFFREY RAPP, )	
	)
Claimant, )	
	)
vs. )	<b>FINDINGS OF FACT;</b>
	<b>CONCLUSIONS OF LAW;</b>
	<b>AND ORDER</b>
JIM HOLMES CONSTRUCTION, INC., )	
a Montana corporation, )	
	)
Respondent. )	

\* \* \* \* \*

**I. INTRODUCTION**

Hearing Officer Gregory L. Hanchett convened a contested case hearing in this matter on June 23, 2010. Claimant Jeffrey Rapp failed to appear even though he had timely notice of the time and date of the hearing. Respondent Jim Holmes Construction appeared through counsel J. Troy Redmon and indicated that the respondent was ready to proceed.

**II. FINDINGS OF FACT**

1. Rapp failed without good cause to appear at the hearing in this matter.
  
2. Because Rapp did not appear, he failed to carry his burden of proof to demonstrate that he was owed additional wages. In accordance with this tribunal's earlier order, Rapp's failure to appear constitutes good cause to affirm the determination below. The determination below found that Rapp was not owed additional wages.
  
3. The record provided to the Hearings Bureau (Documents 1 through 34) fully supports the finding that the respondent does not owe Rapp additional wages.

### III. CONCLUSIONS OF LAW

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

2. The appellant without good cause failed to appear at hearing and, by failing to appear and prosecute his appeal, has shown no basis for finding that he is owed additional wages as he alleges in his complaint.

3. A review of the Wage and Hour Unit determination shows no legal cause why the order should not be affirmed.

### IV. ORDER

Based upon the foregoing, the determination of the Wage and Hour Unit that Rapp is not due additional wages is affirmed. Rapp's appeal, therefore, is dismissed.

DATED this 24th day of June, 2010.

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.