

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

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|---|------------------------------|
| IN THE MATTER OF THE WAGE CLAIM) | Case No. 1161-2015 |
| OF CYNTHIA A. TSAI,) | |
|) | |
| Claimant,) | |
|) | |
| vs.) | FINAL AGENCY DECISION |
|) | |
| VIROPRO, INC., a Nevada corporation,) | |
| not registered with the Montana Secretary) | |
| of State,) | |
|) | |
| Respondent.) | |

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I. INTRODUCTION

On March 29, 2017, the Respondent filed a Motion to Dismiss based on timeliness and jurisdictional issues. Tsai responded to the Motion on March 27, 2017 (apparently Ms. Tsai was served before the Motion was filed with OAH). Viropro’s Reply Memorandum is allowed.

II. FINDINGS OF FACT

1. Tsai filed her claim for unpaid wages on December 18, 2014.
2. Tsai was terminated from her position with Viropro, Inc. on June 4, 2014. Exhibit A attached to Viropro’s Reply Memorandum.
3. Any wages due Tsai were required to be paid within 15 days. Mont. Code Ann. § 39-3-205. Default or delay in payment of those wages would have occurred on June 18, 2014.
4. An employee may recover unpaid wages by filing a claim with the department within 180 days of default or delay in payment. Mont. Code. Ann. § 39-3-207.

5. Tsai filed her claim 183 days after Viropro's default.

6. Tsai's claim is untimely.

III. 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. Cynthia Tsai's claim for unpaid wages was filed beyond the 180-day limitation period for filing claims. Mont. Code Ann. § 39-3-207.

IV. ORDER

1. Viropro Inc.'s Motion to Dismiss is GRANTED. Its other motions are moot.

2. The claim filed by Cynthia A. Tsai is DISMISSED.

DATED this 31st day of March, 2017.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ DAVID A. SCRIMM
DAVID A. SCRIMM
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 the date of mailing of the hearing officer's decision. See also Mont. Code Ann. § 2-4-702. Please send a copy of your filing with the district court to:

Department of Labor & Industry
Wage & Hour Unit
P.O. Box 201503
Helena, MT 59624-1503