

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

IN THE MATTER OF THE WAGE CLAIM) Case No. 1070-2021
OF BRITTNEY M. MILL,)

Claimant,)

vs.)

ASIAN SEA GRILL, INC. & WILD)
GINGER, INC.,)

Respondent.)

**ORDER ON
SUMMARY JUDGMENT
MOTIONS**

* * * * *

Brittney Mill (Mill) filed wage claims with the Department of Labor and Industry based on her former employment with Asian Sea Grill, Inc. (ASG) and Wild Ginger, Inc. (WG). Mill filed the claims on October 15, 2020. The Department dismissed both claims as time barred. Mill appealed to a contested case hearing.

On March 29, 2021, ASG and WG filed motions for summary judgment asserting that Mill’s claims were time barred because Mill filed her claim against ASG 170 days late and her claim against WG 422 days late, each after the 180 day statute of limitations had run from the last date the employers had the duty to pay Mill wages. On April 23, 2021, Mill’s attorney responded to the summary judgment motions by conceding that both ASG and WG are entitled to summary judgment as a matter of law.

Section 39-3-207(1), MCA, requires “An employee may recover all wages and penalties provided for the violation of 39-3-206 by filing a complaint within 180 days of default or delay in the payment of wages.” Because the parties agree that there are no genuine issues of material fact in dispute and because they further agree that respondents are entitled to judgment regarding the statute of limitations, summary judgment is proper. Mill’s claims cannot be considered because the claims were not filed within 180 days of a default or delay in the payment of wages. Because the parties agree the Respondents are entitled to judgment as a matter of law, this order will not address the additional issue raised by Respondents that Mill did not properly file her request for an appeal.

Summary judgment is granted to ASG and WG regarding Mill's wage claims. This matter is dismissed with prejudice.

Dated this 6th day of May, 2021.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ JUDY BOVINGTON
JUDY BOVINGTON
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 59620-1503