

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

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| IN THE MATTER OF THE WAGE CLAIM | ) | Case No. 317-2026            |
| OF ROBIN BRUSELL,               | ) |                              |
|                                 | ) |                              |
| Claimant,                       | ) |                              |
|                                 | ) |                              |
| vs.                             | ) | <b>FINAL AGENCY DECISION</b> |
|                                 | ) |                              |
| IRENE AND TONY SERIO,           | ) |                              |
|                                 | ) |                              |
| Respondent.                     | ) |                              |

\* \* \* \* \*

**I. PROCEDURAL BACKGROUND**

On October 10, 2024, Claimant Robin Brusell (Brusell) filed a claim with the Wage and Hour Unit of the Montana Department of Labor and Industry (Wage and Hour Unit) alleging Respondents Irene and Tony Serio (Serios) owed him \$500.00 in unpaid wages for work performed from September 16, 2024 to September 20, 2024.

On July 10, 2025, the Wage and Hour Unit issued a determination finding the Serios owed Brusell a total of \$500.00 in unpaid wages and, with a total penalty amount of \$550.00.

On July 25, 2025, the Serios requested to appeal the claim made by Brusell. Mandatory mediation occurred thereafter. The mediator indicated on September 17, 2025, that mediation was unsuccessful.

On September 21, 2025, the Serios appealed the determination. Brusell did not appeal the determination. The matter was transferred to the Office of Administrative Hearings on September 29, 2025.

On October 1, 2025, a Notice of Hearing and Scheduling Conference was issued, assigning Joslyn Hunt to hear and decide the case. In that notice, the parties were advised “[a] party’s failure to appear for any conference, and/or failure to obey orders issued by the Hearing Officer, may result in sanctions against that party that can include entry of default, dismissal of an appeal, dismissal of the complaint, imposition of liability or other appropriate sanctions.”

Brusell appeared at the scheduling conference on October 10, 2025. The Serios also appeared. The Hearing Officer issued a Scheduling Order on October 16, 2025. The Hearing Officer set dates and deadlines for expert disclosure, discovery completion, motions, motion responses, motion replies, final exchange, final pre-hearing conference, and hearing. The Hearing Officer again placed the parties on notice that a party's failure to appear and/or failure to obey orders issued by the Hearing Officer may result in sanctions against the party to include entry of default, dismissal of an appeal or complaint, imposition of liability or other appropriate sanctions.

On December 29, 2025, the Hearing Officer convened a final pre-hearing conference at 9:00 a.m., Mountain Time, by Zoom audio conference. At the appropriate time and on the appropriate date, the Serios appeared. Brusell did not appear. The hearing was delayed for approximately ten minutes, at the end of which time Brusell did not appear. The Hearing Officer held the final pre-hearing conference in Brusell's absence. The case was set to proceed to contested case hearing on January 5, 2026, at 9:00 a.m., Mountain Time, by Zoom video conference.

On December 30, 2025, the Hearing Officer issued an Order for Claimant to Show Cause, ordering Brusell to show cause at the January 5, 2026 hearing why he failed to appear at the final pre-hearing conference on December 29, 2025. The Hearing Officer also indicated that if Brusell failed to appear at the show cause hearing, the Department's determination would be vacated and Brusell's claims would be dismissed with prejudice.

On January 5, 2026, the Hearing Officer convened the hearing in this matter at 9:00 a.m., Mountain Time, by Zoom video conference. At the appropriate time and on the appropriate date, the Serios appeared. Brusell did not appear. The hearing was delayed for approximately ten minutes, at the end of which time Brusell did not appear.

## **II. ISSUE**

Whether the Serios owe wages as alleged in the complaint filed by Brusell, and owe penalties as provided by law.

## **III. FINDINGS OF FACT**

1. Brusell received notice regarding the need to show cause for his failure to attend the final pre-hearing conference held on December 29, 2025. Brusell was warned his claim would be dismissed if he failed to appear.

2. Brusell failed to show cause for his failure to attend the December 29, 2025 final pre-hearing conference.

3. Brusell failed to appear at the January 5, 2026 show cause hearing in this matter.

4. Brusell failed to follow the orders of this tribunal.

#### **IV. DISCUSSION**

This is a contested case proceeding subject to the Montana Administrative Procedures Act (MAPA) pursuant to Mont. Code Ann. § 2-4-601 et. seq and § 39-3-216. Brusell received proper notice with the October 1, 2025 Notice of Hearing and Scheduling Conference and October 16, 2025 Scheduling Order that he must appear and that a failure to appear may result in sanctions to include dismissal of the complaint. Additionally, Brusell received proper notice with the December 30, 2025 Order for Claimant to Show Cause that he must show cause for his failure to attend the final pre-hearing conference held on December 29, 2025. In that Order, Brusell received proper notice that if he failed to attend the January 5, 2026 show cause hearing, the Department's determination in this matter would be vacated and Brusell's claim would be dismissed with prejudice.

Good cause is generally defined as a "legally sufficient reason" to show why a request should be granted or an action excused. Good cause necessarily depends on the totality of the facts and circumstances of a particular case. *City of Helena v. Roan*, 2010 MT 29, ¶ 13, 355 Mont. 172, 226 P.3d 601.

Brusell received proper notice that he must appear and that he must show cause for his failure to attend the final pre-hearing conference in this matter. On January 5, 2026, Brusell failed to appear. Brusell also failed to show cause why he failed to attend the final pre-hearing conference in this matter. In failing to appear and failing to show cause, Brusell failed to follow orders of this tribunal. Therefore, the sanction for Brusell's failures is dismissal of Brusell's claim.

#### **V. 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 Co.*, 176 Mont. 31, 575 P.2d 923 (1978).

2. The Office of Administrative Hearings properly served notices to the parties at their addresses of record.

3. Brusell failed to show cause for his non-attendance at the December 29, 2025 final pre-hearing conference.

4. Brusell failed to follow the orders of this tribunal after warning that his claims would be dismissed.

5. Brusell's claims are dismissed with prejudice.

## **VI. ORDER**

Having failed to show cause for his non-attendance, Brusell's claim is dismissed with prejudice. The Department's determination finding that the Serios owe Brusell \$500.00 in unpaid wages and a total penalty in the amount of \$550.00 is vacated.

DATED this 13th day of January, 2026.

DEPARTMENT OF LABOR & INDUSTRY  
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ JOSLYN HUNT  
JOSLYN HUNT  
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