



## ANALYSIS

This Court finds that Jewels Jem's Petition for Judicial Review must be dismissed because it failed to satisfy the mandatory pleading requirements of Mont. Code Ann. § 2-4-704(2). As a result, the Department of Labor's Final Agency Decision is affirmed in its entirety.

The Montana Administrative Procedure Act allows judicial review of an administrative decision to "[a] person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final written decision in a contested case." Mont. Code Ann. § 2-4-702(1)(a).

In ruling on a petition for judicial review this Court may affirm the agency's decision, remand the case for further proceedings, or reverse the agency's decision if the appellant's substantial rights have been prejudiced. Mont. Code Ann. § 2-4-704(2).

Pursuant to Mont. Code. Ann. § 2-4-704(2)(c), a petition for judicial review must contain:

a concise statement of the facts upon which jurisdiction and venue are based, a statement of the manner in which the petitioner is aggrieved, and the ground or grounds specified in 2-4-704(2) upon which the petitioner contends to be entitled to relief. The petition must demand the relief to which the petitioner believes the petitioner is entitled, and the demand for relief may be in the alternative.

The Montana Supreme Court interprets Mont. Code Ann. § 2-4-704(2)(c) by “the plain meaning of the words it contains.” *Hilands Golf Club v. Ashmore*, 2002 MT 8, ¶ 20, 308 Mont. 111, 39 P.3d 697.

Jewels Jem’s Petition fails to comply with the plain language of Mont. Code Ann. § 2-4-704(2)(c) because it does not contain “a statement of the manner in which [it] is aggrieved.” Instead, Jewels Jem’s Petition merely references the Department of Labor’s Final Agency Decision and recites statutory language. Dkt. 7, p. 4-5. It does not identify any specific error the Department of Labor purportedly made, does not identify any facts warranting judicial review, and fails to provide any reason as to why Jewels Jem believes it “is aggrieved.”

As a result, Jewels Jem’s Petition for Judicial Review is hereby **DISMISSED**. The Department of Labor’s Order requiring Jewels Jem to pay Dawn Augustine \$18,317.90 in wages and penalties is **UPHELD** and **AFFIRMED**. Jewels Jem shall remit payment within thirty (30) days of the date of this Order.

Furthermore, pursuant to Mont. Code Ann. § 39-3-214, “[w]henver it is necessary for the employee to enter or maintain a suit at law for the recovery or collection of wages due...a **resulting judgment must include**

a reasonable attorney fee in favor of the successful party, to be taxed as part of the costs in the case.” (emphasis added).


Therefore, Jewels Jem is hereby **ORDERED** to pay Ms. Augustine’s attorney fees and costs incurred in defending the Final Agency Decision.

Ms. Augustine shall submit an affidavit of attorney’s fees and costs within fifteen (15) days of the date of this Order.

Jewels Jem shall file a response identifying its objections to the attorneys’ fees and costs within ten (10) days after Ms. Augustine files such affidavit. A judgment shall issue in the event Jewels Jem does not file a response.

A hearing on the reasonableness of Ms. Augustine’s attorney’s fees and costs, if necessary, is hereby set for the 10<sup>th</sup> day of September, 2020, at 10:00 (a.m./p.m.).

DATED this 25<sup>th</sup> day of June 2020.

  
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Hon. John W. Parker  
DISTRICT COURT JUDGE