

## Administrative Rule 5 – Grounds for Dismissing an Alleged Violation

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### 1.0 AUTHORITY

For the purposes of this Administrative Rule, the Director of Civil Rights has been delegated the authority to adopt, amend, and repeal rules and regulations by the Minneapolis Code of Ordinances § 40.100 (workplace regulations).

### 2.0 PURPOSE

To provide clarification regarding the grounds on which alleged violations of Title 2, Ch. 40 may be dismissed.

### 3.0 EFFECTIVE DATE

These rules shall take effect October 28, 2019.

### 4.0 GROUNDS FOR DISMISSING AN ALLEGED VIOLATION

The Director of Civil Rights has broad authority to implement, administer, and enforce Title 2, Ch. 40 of the Minneapolis Code of Ordinances. As such, the Department has sole discretion in deciding whether to investigate, prioritize, or pursue an alleged violation.

**4.1 Grounds for dismissal.** The grounds on which the Department may decline to initiate an investigation include but are not limited to:

- a) Compliance Achieved – Employer is now compliant with the ordinance.
- b) No Jurisdiction – Allegation falls outside the jurisdiction of the ordinance.
- c) No Merit – Charge falls outside the scope of the ordinance and/or does not meet the elements of a violation.
- d) Frivolous Charges – Charges are: illogical, fantastic, or incoherent; negated by common knowledge which the Director takes official notice of; brought by a charging party acting in bad faith; or substantially the same as a previous charge in which no violation was found and involves the same charging party but a different respondent.
- e) Failure to File – Charge is not filed within one year of alleged violation.
- f) Failure to Respond – Reporter fails or refuses to provide information within 14 days of initial request by department staff.
- g) Director Discretion – Director or director’s designee chooses not to pursue an investigation any further.

**4.2 Notification.** Should the Department decline to initiate an investigation, the Department shall provide written notification to the reporter and include an explanation of its decision and the reporter’s right to request a reconsideration with the Director.

### 5.0 PROCESS TO REQUEST A RECONSIDERATION

**5.1 Request for reconsideration.** The reporter must submit a written request for reconsideration within twenty-one (21) days of receiving a dismissal notification letter. If no request is received, the reporter waives the opportunity to request a reconsideration, unless explicitly excused by the Director of Civil Rights.

**5.2 Reconsideration decision.** Once a request for reconsideration has been received, the Director shall consider the record submitted by the Minneapolis Labor Standards Enforcement Division and any written statements submitted by the reporter.

**5.3 Notification.** The reporter will be notified in writing of the Director's decision within ten (10) days.

## **6.0 FACTORS CONSIDERED WHEN ISSUING A DECISION**

The Director may evaluate several different factors when reviewing a request for reconsideration. Such factors include but are not limited to:

- a) The order of dismissal was affected by fraud, mistake, or misconception of fact.
- b) Department staff was less than reasonably diligent in trying to locate the charging party, obtaining information from the charging party, and/or in reviewing the information provided by the charging party.
- c) Reopening the case would result in undue prejudice to the respondent.
- d) New information was presented to establish jurisdiction/meritorious allegation.
- e) A change in law or circumstance.