

Dwight Barrett
2018 Richards Street
Salt Lake City, Utah 84115
(801) 755-9744
Chevelletogo323@gmail.com
Plaintiffs Pro Se

FILED

JUL 03 2018
ANGIE SPARKS, Clerk of District Court
By *[Signature]* Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

DWIGHT BARRETT, an individual;

Plaintiff,

vs.

THE CLARK FORT AND BLACKFOOT
LLC d/b/a NORTHWESTERN ENERGY,

Defendant.

Case No.

ADV-2018-469
(email)

Complaint

MIKE MENAHAN
PRESIDING JUDGE

pd

COMES NOW the Plaintiffs, Dwight Barrett (the "Plaintiff"), respectfully state the following:

1. During the week of February 16, 2018, the temperature in Helena, Montana fell below freezing each night and was -2 degrees on February 12, 2018.
2. On or around February 12, 2018, Defendant Northwestern Energy ("NWE") intentionally and knowingly disconnected the power of the property located at 101-1003 to -1007 East Broadway, Helena, Montana (hereinafter the "Property").
3. As a result of NWE's conduct, temperatures in Apartment No. 1003 fell to 48 degrees, endangering the health and safety of the occupants of the Property and resulting in thousands of dollars in property and consequential damages.

4. NWE intentionally and recklessly disconnected the Property even though such conduct was clearly prohibited under Montana law precisely because of the extreme risk to human life caused by the lack of power in such extreme temperatures.

5. Due to the grave risk to human life if power is disconnected during the bitter cold of Montana winters, Montana state law prohibits NWE (and other utility providers) from disconnecting its power whenever the temperature is below 32 degrees.

6. Additionally, due to the grave risk to human life if power is disconnected during the bitter cold of Montana winters, Montana state law requires that NWE go through a series of steps including appropriate notice and commission approval before it can disconnect power to a property that is known to be occupied by renters.

7. Plaintiffs have had a landlord agreement in place with NWE for the last 33 years, identifying the property as a rental property and, as a result, placing additional obligations on NWE for providing notice to Plaintiffs if it intends to disconnect electricity.

8. During that 33 years, Plaintiffs have never failed to pay a bill. The bill NWE alleged to be outstanding—to justify its decision to disconnect the power to the Property—was for \$16.37.

9. NWE does not appear to have made any legitimate effort to notify Plaintiffs of this issue—and certainly did not meet the requirements under Montana law for providing notice—despite the landlord-tenant agreement, the regulations governing NWE's behavior, the extreme temperatures, or the 33-year history of timely and complete bill payment.

10. NWE admits in a letter dated March 28, 2018, that it did not even send its (defective) notice until February 5, 2018, a mere six days before it disconnected the power to the Property. The notice arrived in a plain envelope.

11. NWE knowingly and intentionally failed to undergo any of the steps required of it when it disconnected power to the Property.

12. As a result, Plaintiffs were not made aware that the power had been disconnected until approximately four days *after* the power was disconnected.

13. NWE knowingly disconnected power at the Property, despite its knowledge that the Property was a rental property, despite the fact that the temperature was dangerously low, and in violation of its contractual and statutory obligations without providing any notice—let alone the statutorily required notice—to the Plaintiff or the occupants of the Property.

14. Exhibit A. Is from Three Brothers Plumbing and Heating Inc. Three Brothers Plumbing is the one who came out to the apartment and found the pipes were frozen.

15. Exhibit's B-1-5 show a Google print out showing what the temperatures were the week that the power was shut off.

16. Exhibit's C-1-3 show that plaintiff did have a landlord agreement signed with NorthWestern Energy.

17. Exhibit D-1-2 shows that plaintiff reached out to the Montana Public Service Commission to see if they could help resolve this issue. The Montana Public Service Commission told plaintiff could not help and to contact NorthWestern Energy directly, which plaintiff did.

18. Plaintiff then spoke several times with Steven Rock. Steven Rock told the plaintiff to file a claim with Tana Wilcox, which plaintiff did.

19. Exhibit E-1 shows a letter that plaintiff received from Tana L Wilcox denying plaintiff's request for reimbursement.

20. Just as a note, NorthWestern Energy LLC was given, plaintiff believes, ten million dollars to assist them in paying the energy bills of those people who can't afford to make their payment. Of the above mentioned ten million dollars, NorthWestern Energy LLC ended up giving back seven and a half million dollars.

THEREFORE the Plaintiff respectfully asks this court to grant the following:

As a result of NWE's extreme and outrageous conduct, Plaintiff has suffered actual damages in the amount of \$1,479.90. The costs are as follows: \$539.90 for Three Brothers Plumbing Inc., \$750.00 for legal fees, \$90.00 for plaintiff's manager fees, \$200.00 for plaintiff's time.

1. It is my prayer that NorthWestern Energy LLC be required to pay eighty-million dollars (\$80,000,000.00) to plaintiff for emotional distress.
2. It is my prayer that NorthWestern Energy LLC be required to pay eighty-million dollars (\$80,000,000.00) for emotional harm.
3. It is my prayer that NorthWestern Energy LLC be required to pay eighty-million dollars (\$80,000,000.00) for punitive damages.
4. It is my prayer that NorthWestern Energy LLC be required to pay for a grand-total two hundred forty million fourteen hundred and seventy-nine dollars and ninety cents (\$240,001,479.90).

Dwight J. Barrett
(Your signature)
Dwight J. Barrett
(Print your name)
July 2nd 2018
(Date)

State of Utah

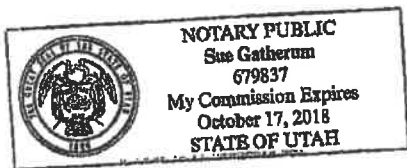
)
: ss

County of Salt Lake

Dwight J. Barrett being first duly sworn, upon oath, deposes and says as follows: I am the Plaintiff in the foregoing Complaint. I have read the foregoing Complaint and the facts of the matter contained herein are true, correct and complete to the best of my knowledge and belief.

Dwight J. Barrett
Plaintiff

Signed and sworn to (or affirmed) before me this 2nd day of July, 2018.



Sue Gatherum
(Signature of notary)
Sue Gatherum
(Printed name of notary public)

Notary public for the state of Utah

Residing at: Salt Lake City

My commission expires: 10-17-18



Inc.

www.3brothersplumbing.com

3 Virginia Road • Montana City, MT 59634 • Phone: (406) 449-4343 • Fax: (406) 449-4347

Invoice

Date	Invoice #
2/28/2018	41159

Bill To
Dwight Barrett 2018 Richards St. Salt Lake City, UT 84115

		P.O. No.	Terms	Project
		15736-81	Due on receipt	1003 E. Broadway St...
Quantity	Description	Rate		Amount
	Re: 1003 E. Broadway St. Helena, MT			
	Item 1: Dishwasher leaking- disconnect dishwasher and replaced extension tube under kitchen sink. Ran sewer snake through line to clear-found very hard grease. Line may be frozen.			
	Item 2: Traced water lines throughout home to find shut off valve. Shut off main water supply and drained lines- disposed of dishwasher.			
1	1 1/2 pvc extension tube	3.40		3.40
1	old dishwasher disposal fee	25.00		25.00
3.5	Brien P. 2-20-18	93.00		325.50
2	Rob G. 2-21-18	93.00		186.00
We appreciate your business & have a great day!		Total		\$539.90

Accounts not paid in full within 30 days are subject to a 1.5% finance charge per month. If this account is placed for collection, the purchaser agrees to pay reasonable associated collection fees.

2/26/2018

B-1

Helena Month Weather - AccuWeather Forecast for MT 5901

World > North America > United States > Montana > Helena

ENGLISH (US), °F

Helena, MT

Follow us on

United States Weather

Helena, MT

27°F

Allergies: Low

Now

Weekend

Extended

Month

Radar

MinuteCast®

Watch News

January 2018

View:

February

2018

March 2018

SUN 1/28

Actual Temp
38°/23°Hist. Avg.
35°/15°

MON 1/29

Actual Temp
42°/24°Hist. Avg.
35°/15°

TUE 1/30

Actual Temp
51°/30°Hist. Avg.
35°/15°

WED 1/31

Actual Temp
35°/23°Hist. Avg.
36°/15°

THU 2/1

Actual Temp
30°/15°Hist. Avg.
36°/15°

FRI 2/2

Actual Temp
49°/23°Hist. Avg.
38°/15°

SAT 2/3

Actual Temp
45°/1°Hist. Avg.
36°/15°

SUN 2/4

Actual Temp
19°/0°Hist. Avg.
36°/15°

MON 2/5

Actual Temp
21°/13°Hist. Avg.
36°/16°

TUE 2/6

Actual Temp
25°/10°Hist. Avg.
36°/16°

WED 2/7

Actual Temp
45°/16°Hist. Avg.
37°/16°

THU 2/8

Actual Temp
48°/5°Hist. Avg.
37°/16°

FRI 2/9

Actual Temp
9°/1°Hist. Avg.
37°/16°

SAT 2/10

Actual Temp
14°/-7°Hist. Avg.
37°/16°

SUN 2/11

Actual Temp
21°/3°Hist. Avg.
36°/16°

MON 2/12

Actual Temp
12°/-5°Hist. Avg.
38°/16°

TUE 2/13

Actual Temp
29°/-8°Hist. Avg.
36°/16°

WED 2/14

Actual Temp
44°/13°Hist. Avg.
36°/17°

THU 2/15

Actual Temp
20°/2°Hist. Avg.
36°/17°

FRI 2/16

Actual Temp
31°/4°Hist. Avg.
39°/17°

SAT 2/17

Actual Temp
30°/12°Hist. Avg.
39°/17°

SUN 2/18

Actual Temp
12°/0°Hist. Avg.
39°/17°

MON 2/19

Actual Temp
6°/-6°Hist. Avg.
40°/17°

TUE 2/20

Actual Temp
8°/-13°Hist. Avg.
40°/18°

WED 2/21

Actual Temp
15°/-13°Hist. Avg.
40°/18°

THU 2/22

Actual Temp
20°/-3°Hist. Avg.
40°/18°

FRI 2/23

Actual Temp
25°/-5°Hist. Avg.
41°/18°

SAT 2/24

Actual Temp
32°/18°Hist. Avg.
41°/18°

YESTERDAY

Actual Temp
40°/25°Hist. Avg.
41°/19°

TODAY 2/26

30°/8°

Mostly cloudy
and colderHist. Avg.
42°/19°

TUE 2/27

29°/16°

Turning
cloudy and
coldHist. Avg.
42°/19°

WED 2/28

34°/16°

Mostly cloudy
and coldHist. Avg.
42°/20°

THU 3/1

36°/18°

Cloudy

Hist. Avg.
43°/20°

FRI 3/2

34°/14°

Cloudy, snow
showers; coldHist. Avg.
43°/20°

SAT 3/3

30°/11°

Cold with
intermittent
snowHist. Avg.
44°/20°FORECASTER
// CHALLENGE

powered by CANTON

What do you
think will
happen?MAKE YOUR
PREDICTION NOW!

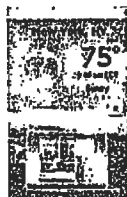
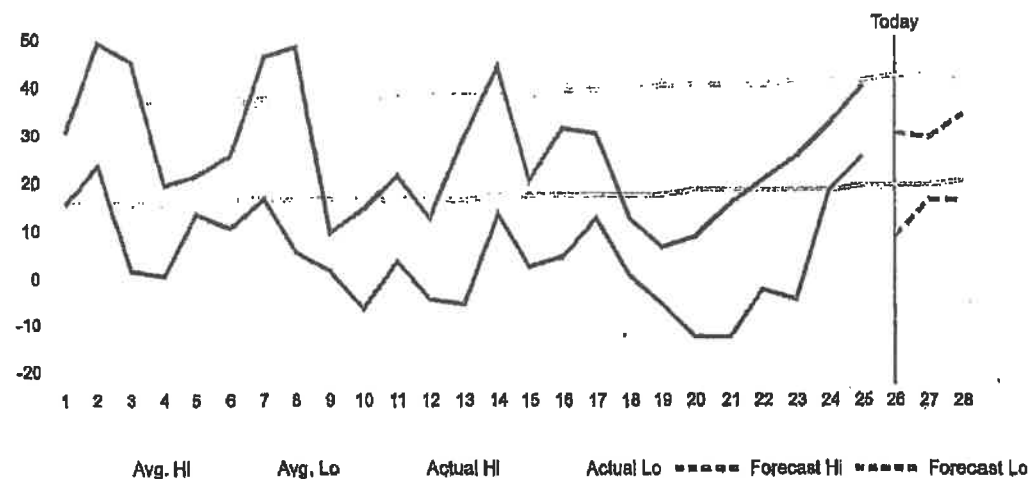
AccuWeather

January 2018

March 2018

B-2

Temperature Graph February 2018



AccuWeather Widgets

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AccuWeather's responsive-design
widgets provide an optimal
viewing experience for your
visitors on virtually any device.
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AccuWeather

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personalized weather
forecast videos with
friends and family
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The Weather Station for
Smartphone

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Android App
Windows App
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SUBSCRIPTION SERVICES

AccuWeather Premium
AccuWeather Professional

B-3

Past Weather in Helena, Montana, USA — Yesterday and Last 2 Weeks

Now

-3 °F

Clear.

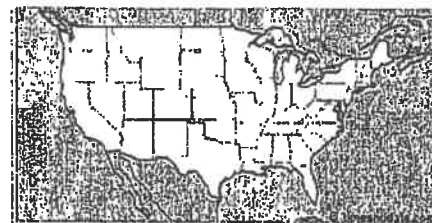
Feels Like: -11 °F

Forecast: -4 / 21 °F

Wind: 3 mph → from West



Location: Helena Regional Airport
 Current Time: Feb 23, 2018 at 7:54:04 am
 Latest Report: Feb 23, 2018 at 6:53 am
 Visibility: 10 mi
 Pressure: 30.42 "Hg (25.75 "Hg at 1239m altitude)
 Humidity: 86%
 Dew Point: -8 °F

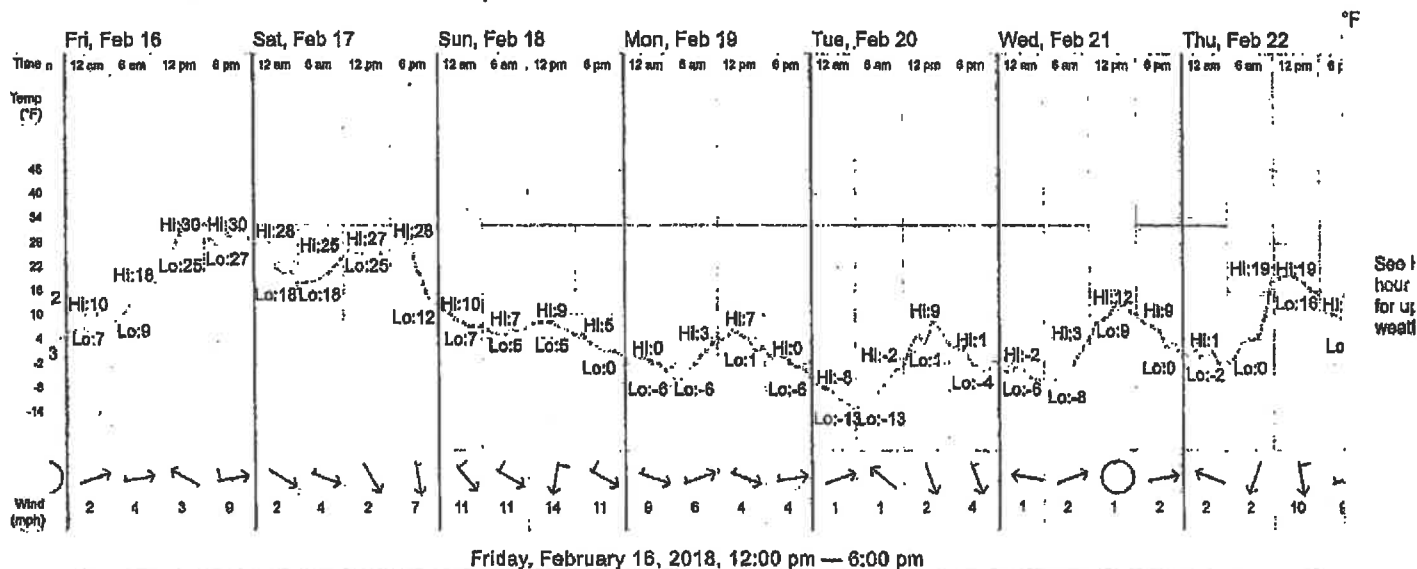


Place or country... Search Time/General Weather Time Zone DST Changes Sun & Moon

Weather Today/Tomorrow Hour-by-Hour Forecast 14 Day Forecast **Yesterday/Past Weather** Climate (Averages)

Select month: Past 2 Weeks

Past Weather in Helena — Graph



30 / 25 °F

Light snow. Ice fog.

Humidity: 78%
 Barometer: 30 "Hg

ESE
 Wind: 3.107 mph

Thu, Feb 8 | Fri, Feb 9 | Sat, Feb 10 | Sun, Feb 11 | Mon, Feb 12 | Tue, Feb 13 | Wed, Feb 14 | Thu, Feb 15 | Fri, Feb 16 | Sat, Feb 17 | Sun, Feb 18 | Mon, Feb 19 | Tue, Feb 20 | Wed, Feb 21 | Thu, Feb 22 | Fri, Feb 23

See weather overview ▶

Helena Temperature Yesterday

Maximum temperature yesterday: 20 °F (at 1:53 pm)

Minimum temperature yesterday: -2 °F (at 4:53 am)

Average temperature yesterday: 8 °F

B-4 High & Low Weather Summary for the Past Weeks

	Temperature	Humidity	Pressure
High	47 °F (Feb 8, 9:53 am)	100% (Feb 17, 7:18 pm)	30.54 "Hg (Feb 17, 7:18 pm)
Low	-13 °F (Feb 20, 5:53 am)	41% (Feb 14, 11:53 am)	29.39 "Hg (Feb 17, 7:37 pm)
Average	9 °F	76%	30.21 "Hg

* Reported Feb 8 5:53 am — Feb 23 5:53 am, Helena, Weather by CustomWeather, © 2018



Note: Actual official high and low records may vary slightly from our data, if they occurred in-between our weather recording intervals... More about our weather records

Helena Weather History for the Previous 24 Hours

Show weather for: Previous 24 hours

Time	Conditions	Temp		Weather	Comfort		Humidity	Barometer	Visibility
					Wind				
5:53 am Fri, Feb 23		-3 °F		Clear.	No wind	↓	78%	30.40 "Hg	10 mi
4:53 am		-4 °F		Clear.	3 mph	↓	83%	30.41 "Hg	10 mi
3:53 am		-1 °F		Mostly cloudy.	No wind	↓	79%	30.38 "Hg	10 mi
2:53 am		-1 °F		Clear.	No wind	↓	79%	30.39 "Hg	10 mi
1:53 am		-1 °F		Clear.	No wind	↓	79%	30.39 "Hg	10 mi
12:53 am		0 °F		Clear.	3 mph	↙	75%	30.39 "Hg	10 mi
11:53 pm Thu, Feb 22		5 °F		Clear.	7 mph	↗	69%	30.37 "Hg	10 mi
10:53 pm		6 °F		Clear.	8 mph	↗	66%	30.39 "Hg	10 mi
9:53 pm		7 °F		Clear.	8 mph	↗	66%	30.40 "Hg	10 mi
8:53 pm		9 °F		Clear.	8 mph	↗	61%	30.40 "Hg	10 mi
7:53 pm		10 °F		Clear.	8 mph	↗	61%	30.39 "Hg	10 mi
6:53 pm		11 °F		Passing clouds.	12 mph	→	59%	30.39 "Hg	10 mi
5:53 pm		15 °F		Mostly cloudy.	10 mph	→	53%	30.37 "Hg	10 mi
4:53 pm		16 °F		Mostly cloudy.	12 mph	↓	56%	30.35 "Hg	10 mi
3:53 pm		18 °F		Sunny.	12 mph	↓	52%	30.33 "Hg	10 mi
2:53 pm		19 °F		Mostly cloudy.	10 mph	↓	52%	30.33 "Hg	10 mi
1:53 pm		20 °F		Overcast.	8 mph	↓	50%	30.32 "Hg	10 mi
12:53 pm		19 °F		Overcast.	7 mph	↘	49%	30.34 "Hg	10 mi
11:53 am		19 °F		Overcast.	6 mph	↘	52%	30.36 "Hg	10 mi
10:53 am		10 °F		Mostly cloudy.	No wind	↓	76%	30.37 "Hg	9 mi
9:53 am		4 °F		Overcast.	3 mph	↙	80%	30.40 "Hg	8 mi

B-S

8:53 am		4 °F	cast.	No wind	↓	84%	30.37 "Hg	7 ml
7:53 am		3 °F	Overcast.	6 mph	/	79%	30.35 "Hg	10 ml
Weather by CustomWeather, © 2018								

Feb 23 Feb 22 Feb 21 Feb 20 Feb 19 Feb 18 Feb 17 Feb 16 Feb 15 Feb 14 Feb 13 Feb 12 Feb 11 Feb 10 Feb 9 Feb 8

See weather overview ▶

Need some help?



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C-1

NorthWesternTM Energy

NorthWestern Corporation
d/b/a NorthWestern Energy
40 East Broadway Street
Butte, MT 59701
Telephone: (406) 497-4840
Facsimile: (406) 497-4950
www.northwesternenergy.com

RECEIVED APR 30 2012

Customer # 22529-6
(Internal Use Only)

LANDLORD AGREEMENT

THIS AGREEMENT made and entered into by and between NorthWestern Corporation d/b/a NorthWestern Energy, 40 East Broadway, Butte, MT 59701, (hereinafter referred to as "NWE"), and

Dwight J Barrett
Northwestern Energy Customer
(hereinafter referred to as
"RESPONSIBLE PARTY")

218 Richard, SLC, UT 84115
Mailing Address

WITNESSETH:

I. NWE AGREES:

- A) For each property listed on the attached Property List, and upon receiving a request to discontinue billing of service(s) for the current NWE customer, which is not the Responsible Party, NWE will place responsibility for future utility charges for the property into the name of the Responsible Party.
- B) At the time responsibility for charges incurred for utility services(s) is transferred from the current NWE customer to the Responsible Party's name, NWE will send the Responsible Party a notification informing of the change of responsibility and its effective date.

II. THE RESPONSIBLE PARTY AGREES:

- A) For each property listed on the attached Property List, the Responsible Party will assume responsibility for the utility charges on the effective date of the request to discontinue billing of service(s) for the current NWE customer.
- B) To be responsible for the utility charges for each property listed on the attached Property List until the Responsible Party or an authorized party provides NWE appropriate notification to remove the specific property from this agreement or to cancel the agreement in its entirety.
- C) To notify NWE of any changes to the Responsible Party's billing address for the purposes of this agreement.
- D) If the Responsible Party requests NWE to discontinue billing of service(s), NWE will terminate service(s) if another party does not assume responsibility.

TV
Done
5/3/2012

C-2

NorthWestern[™] Energy

NorthWestern Corporation
d/b/a NorthWestern Energy
40 East Broadway Street
Butte, MT 59701
Telephone: (406) 497-4840
Facsimile: (406) 497-4950
www.northwesternenergy.com

III. GENERAL CONDITIONS

- A) NWE reserves the right to suspend or terminate this agreement at its option upon written notification to the Responsible Party. Suspension or termination of this agreement may include, but is not limited to, past due monies owed by the Responsible Party for any NWE accounts, or fraud.
- B) If mail from NWE to the Responsible Party is returned due to an incorrect or out-of-date mailing address, NWE will attempt to determine the current address for the Responsible Party.
- 1) If a current address cannot be determined after reasonable effort, NWE reserves the right to cancel this agreement without further notice to the Responsible.
- C) NWE reserves the right to terminate any service(s) covered under this agreement in accordance with the rules and regulations of the Montana Public Service Commission.
- 1) Termination of service may include, but is not limited to, non-payment of account or safety issues.
- 2) Although NWE will attempt to provide prior notice to the Responsible Party when a property covered under this agreement is scheduled for termination of utility service(s), notification is not always possible.
- a. Both Parties understand and agree that it is the responsibility of the Responsible Party to monitor each individual property covered under this agreement in order to prevent any possible damage to each property should utility service(s) be terminated.
- D) NWE reserves the right to cancel this agreement for properties listed upon receipt of a new Landlord Agreement signed by another NWE customer.
- E) The parties understand and agree this agreement will be activated on the date the completed Landlord Agreement is received by NWE.
- F) The Responsible Party may request that ALL AGENTS of their business and/or ALL AGENTS of an Affiliated Business be authorized to act on their behalf with NorthWestern Energy regarding the properties listed on the Property List of this agreement.



NorthWestern Energy Customer's Signature,
Responsible Party

4-26-12
Date

C-3

Property Owner Listing

Customer #: 22527
4/13/2012

* Please fill in any missing information and correct any incorrect information, including customer name, address, or property information

Customer Name: DWIGHT BARRETT

Customer Address: 2018 RICHARDS ST

SALT LAKE CITY UT 841152308

Phone: 801-559-7744 SSN: 517664195 or FEDERAL/STATE TAX ID #: _____
DOB: 1-22-54

Dwight Barrett
Property Owner Signature Date 4-26-12

Account: Stat: Premise: Premise Address:

Check If You
Want To Delete

127879 17020 6861 GREEN MEADOW DR #RENTAL HELENA MT 596029393

Add Properties

Premise Address:

1001-1003-1005-1007
Broadway, Helena, MT
59601

If additional space is
needed, please use
remainder of this page
and the back of this
page.

1001 Broadway 2051711-6 (27228)
1003 Broadway 2051713-2 - (27227)
1005 Broadway 2051720-7 (27230)
1007 Broadway 2051723-1 (27229)

D-1

Montana Public Service Commission



Brad Johnson - Chairman
Travis Kavulla - Vice Chairman
Roger Koopman - Commissioner
Bob Lake - Commissioner
Tony O'Donnell - Commissioner

April 16, 2018

Dwight Barrett
1003 E. Broadway
Helena, Montana 59601
Dwight.Barrett@zionsbancorp.com

Sent via USPS and email

RE: Formal Complaint Procedures

Dear Mr. Barrett,

On March 14, 2018, you contacted the Montana Public Service Commission's ("Commission") Consumer Assistance staff regarding a disconnection of utility service to an apartment you own. Under our informal complaint process, staff contacted NorthWestern Energy ("NorthWestern") and found that your landlord agreement had been suspended due to a delinquent balance owed on one of the accounts within your landlord agreement. This suspension resulted in NorthWestern disconnecting service at 1003 E. Broadway in Helena, rather than re-establishing service in your name.

Because you are requesting compensation for the damages you incurred of approximately \$1,000, and our office does not have the authority to award damages, you were advised to file a damage claim with NorthWestern. As you know, they have denied that claim and you now question whether or not you can or should file a formal complaint with our office.

I have enclosed a copy of the Administrative Rules of Montana 38.2.2101 through -2107, Filing of Complaints. Upon receipt of a formal complaint, the first step is to take the matter before the Commission for consideration of accepting the filing as a formal complaint. Because the Commission can legally only accept a formal complaint that pertains to matters over which it has jurisdiction, and you have indicated you are seeking compensation for damages, the most likely outcome is that the Commission would only accept the filing to determine if NorthWestern followed its tariffs, the Commission's rules, and the landlord agreement. The request for damages would have to be determined by a court. For example, in a complaint filed by Larry Schuster against NorthWestern in Docket No. D2012.9.92, the Commission accepted the formal complaint but limited the determination to whether or not the termination of service was consistent with NorthWestern's tariffs and the Commission's administrative rules. The matter went to the District Court and the Montana Supreme Court after the Commission dismissed the action. On December 3, 2013, the Montana Supreme Court issued a decision in that case, distinguishing between remedies available in a negligence action and a regulatory violation, reasoning that the Commission cannot award damages, and determining the proper venue is in district court for a damage claim. *Schuster v.*

D-2
Dwight Barrett
April 16, 2018
Page 2

NorthWestern, 2013 MT 364, 373 Mont. 54, 314 P.3d 650. You may want to consider contacting private legal counsel to determine your legal options going forward.

I hope this information is helpful to you as you consider what your next steps should be.

Sincerely,

A handwritten signature in dark ink, appearing to read "Justin Kraske", written in a cursive style.

Justin Kraske
Chief Legal Counsel

Encl.

E-1



NorthWestern
Energy
Delivering a Bright Future

March 28, 2018

Mr Dwight Barrett
2018 S Richards St
Salt Lake City, UT 84115-2306

RE: Your Claim for Reimbursement of Damages

Dear Mr Barrett:

I am in receipt of your request for reimbursement of damages you incurred when the power was disconnected at 1003 E Broadway, Helena, MT. NorthWestern Energy's investigation into this matter revealed that you did have a landlord/tenant agreement for this property, but it had been suspended. You were notified that your account was past due and that it would be turned over to collections. You were also notified on February 5, 2018 by letter that the landlord/tenant agreement for the 1003 E Broadway, Helena, MT account was suspended and told that you needed to pay all past due balances or the power would be turned off. We did not hear from you, so we disconnected the power on February 12, 2018. Based on these facts, NorthWestern Energy is denying your claim for reimbursement.

Sincerely,

Tana L Wilcox
Risk Analyst