**BEFORE THE PERSONNEL RESOURCES BOARD**

**STATE OF WASHINGTON**

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| IRENE NGUGI,<br><br>Appellant,<br><br>v.<br><br>THE EVERGREEN STATE COLLEGE,<br><br>Respondent. | ) | PRB Case No. R-JUR-10-001<br><br>**ORDER OF DISMISSAL** |

This matter came before the Personnel Resources Board, LAURA ANDERSON, Vice Chair; and DJ MARK, Member, for dismissal pursuant to WAC 357-52-215 and WAC 357-52-220.

WAC 357-52-215 provides, in relevant part:

> The board may dismiss an appeal on its own motion when:
> . . .
> (4) The board lacks jurisdiction over the subject matter or parties to the appeal; . . . .

On January 11, 2010, the Personnel Resources Board received Irene Ngugi's appeal form requesting an appeal of her January 8, 2010, termination from her Research Associate position at The Evergreen State College. Based on the information Ms. Ngugi provided with her appeal, she worked for the Washington State Institute of Public Policy and her position was exempt.

The civil service laws for employees of the State of Washington are found in Chapter 41.06 RCW. RCW 41.06.070 provides, in relevant part:

> (2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:
> . . .
> (b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities . . . .

RCW 41.06.170 and WAC 357-52-010 provide appeal rights for classified employees covered by civil service laws. However, because Ms. Ngugi was in a position exempted from coverage, it appeared that the Board lacked jurisdiction over her termination.

By letter dated January 12, 2010, Board staff directed the parties to provide written argument addressing the Board's jurisdiction in this matter. Written arguments were due within twenty-one days of the date of the letter. The parties were informed that if the information provided failed to show that Ms. Ngugi's appeal fell within the jurisdiction of the Board, the matter may be presented to the Board for dismissal under the provisions of WAC 357-52-215.

On January 26, 2010, The Evergreen State College filed a written response arguing that Ms. Ngugi's appeal of her termination from her exempt position is not under the jurisdiction of the Board.

In her appeal form, Ms. Ngugi named two attorneys as her representatives. On February 1, 2010, one of the attorneys notified the Board that she was no longer representing Ms. Ngugi. Neither Ms. Ngugi nor her remaining attorney provided a response to the question of the Board's jurisdiction in this matter.

On February 4, 2010, Board staff served the parties with a Notice of Potential Dismissal. The notice stated that the appeal would be dismissed unless, within fifteen calendar days following the date of service of the notice, the Board received a written request showing good cause why the appeal should not be dismissed. Neither party filed a response to the Notice of Potential Dismissal.

The Board having reviewed the file and records herein and being fully advised in the premises, now enters the following:

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal request of Irene Ngugi v. The Evergreen State College, PRB Case No. R-JUR-10-001, is dismissed.

DATED AND MAILED this _____ day of _____, 2010.

WASHINGTON PERSONNEL RESOURCES BOARD

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LAURA J. ANDERSON, Vice Chair

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DJ MARK, Member