BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

JEAN FLYNN, Appellant, v. WASHINGTON STATE LOTTERY, Respondent.	))))))))))	PRB Case No. R-JUR-13-007 **ORDER OF DISMISSAL**

This matter came before the Personnel Resources Board, JOSEPH PINZONE, Chair; DJ MARK, Vice Chair; and NANCY HOLLAND YOUNG, 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:
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> . . .
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> (4) The board lacks jurisdiction over the subject matter or parties to the appeal. . . .

On July 2, 2013, the Personnel Resources Board received Ms. Flynn's letter asking for an investigation of human resource practices at the Washington State Lottery. In addition, Ms. Flynn indicated that her exempt Director of Marketing position had been eliminated.

The civil service laws for employees of the State of Washington are found in Chapter 41.06 RCW. RCW 41.06.070 provides for the exemption of certain positions from coverage of the civil service laws.

RCW 41.06.170 provides appeal rights for classified employees covered by the civil service laws. Ms. Flynn was in a position that was exempt, therefore, it appeared that her position that was not covered by the civil service laws and that the Board lacked jurisdiction over her dismissal.

By letter dated July 9, 2013, 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. Flynn'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 July 16, 2013, the Board received Ms. Flynn's July 12, 2013, letter. In her letter, Ms. Flynn did not address the question of the Board's jurisdiction. Rather, she indicated that she was unable to file a complaint with the State Auditor because she was no longer a state employee and that she would be filing with the Human Rights Commission.

On July 30, 2013, the Washington State Lottery filed a response supporting dismissal of the appeal. In summary, Lottery argued that Ms. Flynn's position was exempt and that she had not worked as a classified employee and did not have reversion rights to the classified service. Lottery asserted that the Board does not have jurisdiction over Ms. Flynn's termination and lacks jurisdiction to hear any of the matters raised in her appeal. Lottery asked that the matter be dismissed.

In this case, it was undisputed that Ms. Flynn was in an exempt position. And, it appeared that the matters she raised were not within the jurisdiction of the Board.

On July 31, 2013, the Board served the parties with a Notice of Potential Dismissal. The notice also 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 written response to the Notice of Potential Dismissal.

RCW 41.06.170 provides appeal rights for employees who are subject to the jurisdiction of the Board. However, Ms. Flynn's position was not covered by the civil service laws. Therefore, the matters raised by Ms. Flynn are not subject to the jurisdiction of the Board.

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 of Jean Flynn vs. Washington State Lottery, PRB Case No. R-JUR-13-007, is dismissed.

DATED AND MAILED this _____ day of _____, 2013.

WASHINGTON PERSONNEL RESOURCES BOARD

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JOSEPH PINZONE, Chair

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DJ MARK, Vice Chair

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NANCY HOLLAND YOUNG, Member