BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

RAHIMAH CARPENTER, Appellant, v. UNIVERSITY OF WASHINGTON, Respondent.	))))))))))	PRB Case No. R-JUR-10-003 **ORDER OF DISMISSAL**

This matter came before the Personnel Resources Board, DJ MARK, Vice Chair, and JOE PINZONE, Member, for dismissal pursuant to WAC 357-52-215 and WAC 357-52-220. LAURA ANDERSON, Chair, did not participate in the decision in this matter.

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 November 9, 2010, Rahimah Carpenter filed an appeal of her layoff from her Budget Fiscal Analyst position at the University of Washington. Based on the information Ms. Carpenter provided with her appeal, the position from which she was laid off was covered by a collective bargaining agreement.

Because Ms. Carpenter's position and the terms of her employment were covered by a collective bargaining agreement, it appeared that the Board lacked jurisdiction in this matter. By letter dated November 10, 2010, Board staff directed the parties to provided written argument addressing the Board's jurisdiction.

On November 23, 2010, Ms. Carpenter provided her written response. Ms. Carpenter indicated that because she did not choose a layoff option, she was no longer a union member. Ms. Carpenter asserted that she was, therefore, a non-contract employee and fell under the jurisdiction of the Board. In addition, Ms. Carpenter's response included a number of allegations of discrimination.

On November 30, 2010, Respondent provided a written response and confirmed that at the time of Ms. Carpenter's layoff, her position was covered by a collective bargaining agreement and she was a member of the Service Employees International Union, Local 925. Respondent asserted that the Board lacks jurisdiction in this matter.

As provided in RCW 49.60.120, allegations of discrimination are within the jurisdiction of the Washington State Human Rights Commission, not the Personnel Resources Board. Therefore, the Board does not have jurisdiction to hear Ms. Carpenter's allegations of discrimination.

In addition, RCW 41.06.170 provides, in relevant part, that

> (2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the director, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action . . . to the Washington personnel resources board after June 30, 2005. . . .
>
> (5) <u>Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130.</u>
>
> (Emphasis added).

At the time of her layoff, Ms. Carpenter's position and the terms of her employment were covered by the provisions of a collective bargaining agreement. Therefore, her layoff was not within the Board's jurisdiction. Further, the RCW does not give the Board jurisdiction to resolve disputes between an employee or former employee and their union. The RCW does not allow the Board to waive the jurisdictional requirements specifying who may appeal to the Board.

On December 2, 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. Responses to the Notice of Potential Dismissal were due no later than 5 p.m. on Friday, December 17, 2010.

After business hours on December 17, 2010, Ms. Carpenter submitted a fax in response to the Notice of Potential Dismissal. In accordance with WAC 357-52-225, Ms. Carpenter's response is deemed filed on December 20, 2010. Respondent did not file a response to the Notice of Potential Dismissal.

In her untimely response, Ms. Carpenter continues to argue that she is no longer a union employee and that the Board should exercise jurisdiction in this matter. Ms. Carpenter does not dispute that prior to her layoff, her position was within the bargaining unit and as such, was covered by the terms of the collective bargaining agreement.

In this case, at the time of Ms. Carpenter's layoff, her position and the terms of her employment were covered by a collective bargaining agreement. Therefore, the Board lacks jurisdiction in this matter. [See RCW 41.06.170(5)]. Further, the Board does not have jurisdiction over allegations of discrimination.

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 Rahimah Carpenter vs. University of Washington, PRB Case No. R-JUR-10-003, is dismissed.

DATED AND MAILED this _____ day of _____, 20____.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Vice Chair

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JOSEPH PINZONE, Member