BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

KENNY TRAN, Appellant, v. DEPARTMENT OF ENTERPRISE SERVICES, Respondent.	PRB Case No. R-ALLO-12-020 **ORDER OF DISMISSAL**

This matter came before the Personnel Resources Board, DJ MARK, Chair; JOSEPH PINZONE, 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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> (1) An appellant has failed to provide information required under WAC 357-52-020;
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> . . .
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> (4) The board lacks jurisdiction over the subject matter or parties to the appeal;
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> . . . .

On December 20, 2012, Brian Earl, President of Teamsters Local 767M, filed an appeal on exceptions on behalf of Appellant Kenny Tran. The appeal was on exceptions to the determination of the director regarding the allocation of Mr. Tran's position. In the exceptions appeal, Mr. Earl appeared to be challenging the adequacy of the existing classifications. However, he failed to "detail the specific items of the director's determination to which exception is taken" as required by WAC 357-52-020(3).

In accordance with WAC 357-52-035, by letter dated December 27, 2012, Board staff directed Mr. Earl to provide the specific items of the director's determination to which Appellant takes exception. The letter notified Mr. Earl that he must provide the specific exceptions to the Board within twenty-one days of the date of the letter. Neither Mr. Earl nor Mr. Tran provided the required information.

When required information is not provided, WAC 357-52-035(5) allows the Board to dismiss the appeal. WAC 357-52-035(5) states '[i]f the appellant fails to comply with the requirements of this section the board may dismiss the appeal according to WAC 357-52-215."

Additionally, RCW 41.06.150 tasks the director with the adoption and revision of a comprehensive classification plan. Further, WAC 357-13-010 provides, in relevant part, that: "[t]he director adopts a comprehensive classification plan and any subsequent revisions to the plan." And, WAC 357-13-050 provides that: "[t]he employer must allocate or reallocate each classified position to an established class in the classification plan." Therefore, consistent with the statute and the rules, the allocation process is not the proper forum to address the creation of a new classification. Resolution of this issue is not within the Board's jurisdiction. Williams v. Dept. of Corrections, PRB Case No. R-ALLO-10-009 (2010).

On January 23, 2013, the Board served the parties with a Notice of Potential Dismissal. The notice stated that because Mr. Earl and Mr. Tran failed to provide the specific items of the director's determination to which Mr. Tran takes exception and failed to respond to the December 27, 2012, letter from Board staff, it appeared that the appeal should be dismissed.

The Notice of Potential Dismissal notified that parties 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 provided a response to the Notice of Potential Dismissal. Therefore, the appeal should be dismissed.

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 Kenny Tran v. Department of Enterprise Services, PRB Case No. R-ALLO-12-020, is dismissed.

DATED AND MAILED this _____ day of _____, 2013.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Chair

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JOSEPH PINZONE, Vice Chair

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NANCY HOLLAND YOUNG, Member