BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

CHRISTOPHER SMALL, Appellant, v. WASHINGTON STATE UNIVERSITY, Respondent.	PRB Case No. R-JUR-12-002 **ORDER OF DISMISSAL**

This matter came before the Personnel Resources Board, DJ MARK, Chair, and JOSEPH PINZONE, Vice Chair, 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 April 9, 2012, the Personnel Resources Board received Christopher Small's request to appeal the termination of his Administrative Professional Temporary Appointment as a Scientific Lab Manager at Washington State University (WSU). Based on the information Mr. Small provided, his position will be discontinued effective September 12, 2012.

The civil service laws for employees of the State of Washington and the laws establishing the Board's jurisdiction are found in Chapter 41.06 RCW. RCW 41.06.070 provides, in relevant part:

> (1) The provisions of this chapter do not apply to:
> . . . .
> (l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board.

. . . .

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results . . . .

It appeared that Mr. Small's position was exempt from Chapter 41.06 RCW. By letter dated April 12, 2012, 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 Mr. Small'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. Neither Mr. Small nor WSU provided a response to the question of the Board's jurisdiction in this matter.

On May 8, 2012, the Board served the parties with a Notice of Potential Dismissal. The notice stated that it appeared that Mr. Small's position was not covered by the civil service laws and that the Board lacked jurisdiction over the termination of his position. 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, Mr. Small was in a temporary exempt position and his position was not covered

by the civil service laws. Therefore, the discontinuation of Mr. Small's position is 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 Christopher Small vs. Washington State University, PRB Case No. R-JUR-12-002, is dismissed.

DATED AND MAILED this _____ day of _____, 2012.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Chair

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JOSEPH PINZONE, Vice Chair