BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

JEAN REED, Appellant, v. OFFICE OF ADMINISTRATIVE HEARINGS, Respondent.	)))))))))	PRB Case No. R-JUR-11-004 **ORDER OF DISMISSAL**

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

On April 19, 2011, Jean Reed filed an appeal of her separation from her Legal Secretary 1 position with the Office of Administrative Hearings. In her letter, Ms. Reed stated that she was in probationary status at the time of her separation. The documents Ms. Reed provided with her appeal indicated that she was separated due to layoff.

Because Ms. Reed was separated during her probationary period, she had not gained status as a permanent employee. RCW 41.06.170(2) provides, in part, that only permanent employees subject to the statutory jurisdiction of the Board may appeal a dismissal. WAC 357-52-010 provides, in

part, that only permanent employees subject to the statutory jurisdiction of the Board may appeal a separation. Since Ms. Reed was a probationary employee at the time of her separation, it appeared that the Board lacked jurisdiction to hear an appeal of that issue.

In her appeal, Ms. Reed also stated that she believed temporary employees should have been separated before she was. However, Ms. Reed failed to cite any rule or statute that she believed the agency had violated. Therefore, it was unclear whether an issue existed over which the Board could exercise jurisdiction.

Because Ms. Reed indicated that she was "let go" during her probationary period and because she failed to cite any rule or law the agency allegedly violated, by letter dated April 20, 2011, Board staff directed Ms. Reed to provided written argument addressing the Board's jurisdiction in this matter and citing the specific rules and statutes, if any, that she alleged had been violated. Ms. Reed's response was due within twenty-one days of the April 20, 2011 letter. Ms. Reed did not file a response.

On May 16, 2011, 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 submitted a request.

RCW 41.06.170 provides, in relevant part, that "[a]ny employee who is reduced, dismissed, suspended, or demoted, <u>after completing his or her probationary period</u> of service as provided by the rules of the director . . ." may appeal to the Board. (Emphasis added.)

WAC 357-52-010 provides, in relevant part:

> (1) Within WGS, the following actions may be appealed:
>
> (a) Any permanent WGS employee subject to the statutory jurisdiction of the board who is dismissed, suspended, demoted, or separated or whose base salary is reduced may appeal to the board. . . .

Ms. Reed admits that she was separated before completing her probationary period. Therefore, the Board lacks jurisdiction to hear an appeal of her separation.

RCW 41.06.170 further provides, in relevant part, that ". . . 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. . . ."

WAC 357-52-020 specifies the information must be submitted with an appeal. The rule provides, in relevant part, that "[t]he appeal must include . . . if applicable, the rule(s) the appellant believes has been violated. . . ."

Ms. Reed alleges that temporary employees should have been separated before she was. However, she failed to cite any rules or laws that she believed had been violated.

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

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ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal request of Jean Reed vs. Office of Administrative Hearings, PRB Case No. R-JUR-11-004, is dismissed.

DATED AND MAILED this _____ day of _____, 2011.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Chair

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JOSEPH PINZONE, Vice Chair

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LAURA ANDERSON, Member