BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

CHRIS DALE, Appellant, v. OFFICE OF THE SECRETARY OF STATE, Respondent.	)	PRB Case No. R-JUR-10-002 **ORDER OF DISMISSAL**

This matter came before the Personnel Resources Board, LAURA ANDERSON, Chair, and DJ MARK, 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 November 2, 2010, Chris Dale filed an appeal of his termination from his Custodian 1 position at the Office of the Secretary of State. In his appeal, Mr. Dale indicated that he was terminated during his probationary period.

Because Mr. Dale indicated that he was dismissed during his probationary period, by letter dated November 2, 2010, Board staff directed the parties to provided written argument addressing the Board's jurisdiction in this matter.

On November 15, 2010, Mr. Dale provided his written response. Mr. Dale confirmed that he was not a permanent employee and acknowledged that he did not have the right to appeal his termination. Mr. Dale further indicated that he believed he was terminated for raising issues of aggressive actions and discriminatory remarks made against him in the workplace.

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 Mr. Dale's allegations of discrimination.

By letter dated November 19, 2010, Respondent provided a written response to the Board's November 2, 2010 letter. Respondent confirmed that Mr. Dale was dismissed during his probationary period and that he was provided with appropriate notice of his dismissal as required by the rules. Respondent asserted that the Board lacks jurisdiction in this matter.

RCW 41.06.170 provides, in relevant part, that "[a]ny employee who is . . . dismissed . . . <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.)

The RCW does not allow the Board to waive the jurisdictional requirements specifying who may appeal to the Board.

On November 29, 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. Neither party filed a response to the Notice of Potential Dismissal.

In this case, Mr. Dale was dismissed before completing his probationary period. Therefore, as provide in RCW 41.06.170, the Board lacks jurisdiction to hear an appeal of his dismissal. 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 Chris Dale vs. Office of the Secretary of State, PRB Case No. R-JUR-10-002, is dismissed.

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

WASHINGTON PERSONNEL RESOURCES BOARD

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LAURA J. ANDERSON, Chair

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DJ MARK, Vice Chair