BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

GRETLYN DAWSON, Appellant, v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	PRB Case No. R-JUR-12-001 **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:
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> . . .
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> (4) The board lacks jurisdiction over the subject matter or parties to the appeal. . . .

On March 28, 2012, Gretlyn Dawson filed an appeal of the effective date of the reallocation of her Customer Service Specialist 4 position at the Department of Social and Health Services. Based on the information Ms. Dawson provided with her appeal, her position was covered by a collective bargaining agreement.

RCW 41.06.170 provides, in relevant part, that

> (2) 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. . . .
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> . . . .

> (5) 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.
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> (Emphasis added).

Because Ms. Dawson's position was covered by a collective bargaining agreement, it appeared that the Board lacked jurisdiction to consider her appeal. By letter dated March 29, 2012, Board staff directed the parties to provided written argument addressing the Board's jurisdiction in this matter. Neither party filed a response to the Board's letter.

On April 23, 2012, the Board served the parties with a Notice of Potential Dismissal. The notice stated that Ms. Dawson's position and the terms of her employment were covered by the provisions of a collective bargaining agreement. Therefore, it appeared that the Board lacked jurisdiction in this matter. 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.

On May 4, 2012, Ms. Dawson provided a written response to the Notice of Potential Dismissal. Her response confirmed that her position was covered by a collective bargaining agreement. Ms. Dawson indicated that she had discussed resolution of her grievance with the council representative but that the effective date of her reallocation had not been resolved. Ms. Dawson asked that the Board not close her appeal.

Respondent did not provide a response to the Notice of Potential Dismissal.

In this case, Ms. Dawson's position and the terms of her employment, including the effective date of her reallocation, were covered by a collective bargaining agreement. Therefore, the Board lacks jurisdiction in this matter.

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 Gretlyn Dawson vs. Department of Social and Health Services, PRB Case No. R-JUR-12-001, 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