BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

SUSAN BILLINGS Appellant, vs. DEPARTMENT OF ECOLOGY Respondent.	PRB Case No. R-SUSP-16-002 **ORDER OF DISMISSAL AND ORDER GRANTING RESPONDENT'S MOTION TO QUASH**

This matter came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, SUSAN MILLER, Vice Chair, and VICKY BOWDISH, Member, for dismissal pursuant to WAC 357-52-215 and WAC 357-52-220.

On November 1, 2016, the Personnel Resources Board received Susan Billings' appeal of a one-week suspension effective October 3, 2016, through October 9, 2016. Board staff scheduled a hearing date for April 19, 2017. On February 14, 2017, Appellant filed a Motion for Continuance. The Board granted the continuance and the hearing was rescheduled for August 2, 2017.

On June 2, 2017, Appellant submitted a discovery request to Respondent.

On June 9, 2017, Respondent filed a Motion to Dismiss and a Motion to Quash the discovery request. In their Motion to Dismiss, Respondent informed the Board that Appellant's one-week suspension without pay was reversed because her pay was restored in full and all documents relating to the suspension were removed from Appellant's file. Having all remedies in Appellant's appeal request granted, Respondent contends all issues raised in the appeal are moot.

In Respondent's Motion to Quash, they stated the discovery request did not conform to the civil rules of procedure for superior courts in Washington, per WAC 357-52-255.

Additionally, Respondent advised Appellant they would be granting her the requested remedies and that a Motion to Dismiss would be filed no later than June 9, 2017, negating the need for discovery.

On June 23, 2017, Appellant filed a Response to the Motions to Dismiss and Quash. In her response, Appellant asserted that, despite the remedy of pay and removal of documents from her file related to the suspension, she wanted a neutral party to determine whether or not the suspension was warranted and whether the "punishment fit the crime." Appellant further stated she was uncomfortable with the appeal ending, as she was not clear on which documents were removed from her file. Additionally, Appellant requested a 2014 Letter of Reprimand (LOR) be removed from her file, since this letter was referenced in the suspension action. Appellant asserted that "…to quash her discovery was to shut down her chance to see the evidence upon which she was convicted."

On June 30, 2017, Respondent filed a Reply to Appellant's Response to the Motions to Dismiss and Quash. Respondent cited case nos. R-LO-16-001 AND R-LO-17-001, *Hanser v Washington State Department of Enterprise Services*, which states in relevant part:

> "…the issues raised in the pending appeal no longer require the PRB to reach a decision on the merits. Further, Respondent asserts the PRB is divested of jurisdiction over the pending appeal because no case in controversy exists between the parties. All issues raised in the appeal are moot."

As in *Hanser*, Respondent contends no controversy exists between the parties and therefore all issues raised in the appeal are moot.

Respondent further contends the 2014 LOR is outside the Board's purview and the timeframe for appealing has passed.

Board Conclusion.

In Appellant's appeal request she provided a statement of the relief or remedy sought, which stated, "Reinstate suspended pay. Remove certain related items from personnel file."

Regarding Appellant's request to have the 2014 LOR removed from her file, LORs are not covered under RCW 41.06.170, which states, in relevant part:

…

> (2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the director, or 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.

…

The PRB also established precedent concerning LORs. *Vandor v DOT*, PRB No. R-JUR-13-010 (2013), states in relevant part:

> …
>
> In addition, this Board and its predecessor, the Personnel Appeals Board, have consistently held that letters of reprimand are not disciplinary actions as anticipated by RCW 41.06.170. [See *Cowden v. Dep't. of Corrections*, PAB Case No. SUSP-96-0014 (1997); and *Treco v. Liquor Control Board*, PRB Case No. R-JUR-12-004 (2012)].Therefore, Mr. Vandor's appeal of a letter of reprimand is not within the jurisdiction of the Personnel Resources Board.
>
> …

Given LORs are not official disciplinary actions covered under RCW 41.06.170 and given Board precedent has been set, the Board will not rule on LORs.

Appellant received her requested remedy, as outlined in Respondent's Motion to Dismiss, which states, in relevant part:

…

> On June 6, 2017, Ecology's Labor Relations and Personnel Manager, Elizabeth Monroe, removed the disciplinary suspension and all related documents from Ms. Billings' personnel file. On June 8, 2017, Ecology also directly deposited the gross amount of $1,899.36 into Ms. Billings' bank account, which represented the total amount of pay she lost as a result of the one-week disciplinary suspension.
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> …

As a result of the documents being removed from Appellant's personnel file and the restoration of lost pay, the controversy no longer exists between the parties and therefore the Board has no appeal to hear.

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 the appeal of *SUSAN BILLINGS V. DEPARTMENT OF ECOLOGY*, PRB Case No. R-SUSP-16-002, is dismissed; and the Motion to Quash is granted.

DATED AND MAILED this _____ day of _____, 2017.

WASHINGTON PERSONNEL RESOURCES BOARD

_____
NANCY HOLLAND YOUNG, Chair

_____
SUSAN MILLER, Vice Chair

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VICKY BOWDISH, Member