BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

CRAIG BOONE, Appellant, v. DEPARTMENT OF TRANSPORTATION, Respondent.	)))))))))	Case No. R-RULE-15-005 ORDER OF DISMISSAL IN RESPONSE TO RESPONDENT'S MOTION TO DISMISS

Consideration of Motion

This matter came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, SUSAN MILLER, Vice-Chair, and VICKY BOWDISH, Member, for consideration of Respondent's Motion to Dismiss.

Facts

Appellant is a permanent Bridge Engineer 5 (BE 5) with the Department of Transportation (DOT).

Appellant requested a review of his permanent BE 5 position while serving in a non-permanent BE 6 position. Appellant communicated to DOT Human Resource (HR) staff he believed his permanent position should be reallocated to a higher level. Appellant did not provide a date for this request in his original appeal.

Respondent informed Appellant that his permanent position will remain at the BE 5 level. In his original appeal request, Appellant did not provide the Personnel Resources Board (PRB) the date that he became aware of the status of his position allocation.

On June 15, 2015, Appellant filed an appeal alleging Respondent violated WAC 357-13-050, WAC 357-13-055 and WAC 357-13-065.

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Board staff scheduled a hearing for January 6, 2016.

On November 13, 2015, Board staff received a Motion to Dismiss from Respondent.

Primary Issue

Whether or not to grant Respondent's Motion to Dismiss, received on November 13, 2015.

Summary of Respondent's Argument

Respondent asserts that Appellant's appeal is untimely. Respondent contends that Appellant filed his appeal well beyond the 30 day timeframe as outlined in WAC 357-52-015(2). Respondent provided attachments to the Motion to Dismiss to show that Appellant recently filed a position review request with DOT HR on October 21, 2015, long after his appeal was filed with the PRB.

Summary of Appellant's Argument

Appellant submitted a response to Respondent's Motion to Dismiss on November 25, 2015. In his argument, Appellant stated his appeal to the PRB was submitted in a timely fashion since he was made aware of his allocation to BE 5 on June 30, 2015, and filed the appeal on July 15, 2015. Appellant also maintained that DOT violated 357-13-050, WAC 357-13-055 and WAC 357-13-065.

Decision

In the process of reviewing the Motion to Dismiss, the Board found that regardless of whether or not DOT HR allocation determination was verbal or written, the decision should be appealed through the director's review, in accordance to WAC 357-13-080, which states:

> An employee may request a director's review of the results of a position review or reallocation of the employee's position, per WAC 357-49-010. The employee must request the director's review within thirty calendar days of being provided the results of a position review or the notice of reallocation.

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WAC 357-13-080 overrides arguments around timeliness because filing an allocation appeal with the PRB was not the correct course of action. If an employee does not agree with the review and analysis of an employer's decision, the first step is appealing through the director's review process.

Concerning alleged rule violations, Appellant stated in his appeal request that prior to returning to his permanent BE 5 position, Respondent determined his permanent position was properly allocated to the BE 5 level. If Appellant disagrees with Respondent's allocation decision the next course of action is to file an appeal through the director's review process. After a director's review, employees may appeal to the PRB on exception to a director's review determination.

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Craig Boone v Department of Transportation, R-RULE-15-005, is dismissed.

DATED this _____ day of _____, 2015.

WASHINGTON PERSONNEL RESOURCES BOARD

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NANCY HOLLAND YOUNG, Chair

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SUSAN MILLER, Vice Chair

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VICKY BOWDISH, Member

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