

1 **BEFORE THE PERSONNEL RESOURCES BOARD**

2 **STATE OF WASHINGTON**

3 VICTORIA SUTTON)

4 Appellant,)

5 v.)

PRB Case No. R-JUR-17-001

6 DEPARTMENT OF ECOLOGY)

7 Respondent.)

ORDER OF DISMISSAL

8
9 This matter came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, and
10 VICKY BOWDISH, Member, for dismissal pursuant to WAC 357-52-215 and WAC 357-52-220.

11 On January 9, 2017, the Personnel Resources Board received Victoria Sutton's appeal of a potential
12 rule violation. By letter dated January 10, 2017, Board staff sent the parties a letter of
13 acknowledgement and later sent a proposed hearing date for June 21, 2017.

14 On January 23, 2017, Board staff sent both parties a corrective letter clarifying that Ms. Sutton's
15 appeal did not fall under the jurisdiction of the Board because she was represented by the
16 Washington Federation of State Employees (WFSE). The letter gave Ms. Sutton twenty-one (21)
17 days to respond to why she believed the case was within the Board's jurisdiction.

18 On February 9, 2017, Board staff received a letter from Ms. Sutton explaining why she believed her
19 appeal was within the Board's jurisdiction. Ms. Sutton cited articles within the WFSE to make the
20 point that the WFSE Collective Bargaining Agreement (CBA) does not contain provisions
21 specifying similar requirements as set forth in state laws or provide methods for addressing rule
22 violations. Ms. Sutton concluded that represented employees, such as herself, do not have the same
23 benefits as those who are non-represented and able to go before the Board.

24 On February 13, 2017, Ms. Hull provided a letter explaining why she believed Ms. Sutton's appeal
25 was not within the Board's jurisdiction. Ms. Hull explained that Ms. Sutton has the benefit of
26 taking advantage of the many bargained-for better provisions that apply to her and claiming contract

1 language does not address her particular circumstance does not make way for legal jurisdiction with
2 the Board.

3 By letter dated February 16, 2017, Board staff sent a Notice of Potential Dismissal to both parties
4 reiterating the Board's lack of jurisdiction. The letter directed the parties to provide a written request
5 showing good cause why the appeal should not be dismissed. The parties had fifteen (15) days to
6 respond.

7 On March 13, 2017, Board staff received a letter from Ms. Sutton emphasizing the lack of specific
8 language in the WFSE contract that relates to her specific alleged rule violation and therefore
9 concluded the Board should hear her case.

10 **Board Conclusion.** Neither the RCW nor the civil service rules allow the Board to waive the
11 jurisdictional requirements for filing appeals. RCW 41.06.170 states, in relevant part:

12 ...
13 (2) Any employee who is reduced, dismissed, suspended, or demoted, after
14 completing his or her probationary period of service as provided by the rules of
15 the director, or any employee **who is adversely affected by a violation of the**
16 **state civil service law, chapter 41.06 RCW, or rules adopted under it, shall**
17 **have the right to appeal...**

18 ...
19 (5) Subsections (1) and (2) of this section do not apply to any employee who is
20 subject to the **provisions of a collective bargaining agreement** negotiated under
21 RCW 41.08.001 and 41.80.010 through 41.80.130 (emphasis added).

22 Given Ms. Sutton is represented by the WFSE, the Board does not have jurisdiction to hear her
23 appeal.

24
25 The Board having reviewed the file and records herein and being fully advised in the premises now
26 enters the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of *VICTORIA SUTTON VS. DEPARTMENT OF ECOLOGY*, PRB Case No. R-RULE-17-001, is dismissed.

DATED AND MAILED this _____ day of _____, 2017.

WASHINGTON PERSONNEL RESOURCES BOARD

NANCY HOLLAND YOUNG, Chair

VICKY BOWDISH, Member