BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

MICHAEL BRANDELL, Appellant, v. DEPARTMENT OF TRANSPORTATION, Respondent.	Case No. RULE-03-0010 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, BUSSE NUTLEY, Member. The hearing was held in the Personnel Appeals Board Hearing Room in Olympia, Washington, on March 2, 2004. WALTER HUBBARD, Chair, listened to the recorded proceedings, reviewed the file, and participated in the decision in this matter.

1.2 **Appearances.** Appellant did not appear nor did any representative appear on his behalf. Ann Mitchell, Labor Relations Consultant, represented Respondent Department of Transportation.

1.3 **Nature of Appeal.** This is a rule violation appeal in which Appellant contends that the department violated WACs 356-18-060 and 356-46-020.

II. FINDINGS OF FACT

2.1 Appellant Michael Brandell and Respondent Department of Transportation are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC.

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2.2 On January 16, 2004, Appellant was provided a Notice of Scheduling that the hearing on his appeal was scheduled for March 2, 2004.

2.3 On February 24, 2002, Appellant attended a pre-hearing conference with Anita Hunter, Executive Secretary of the Personnel Appeals Board.

2.4 On March 2, 2004, the hearing on Appellant's appeal was convened. Appellant did not appear.

2.5 WAC 358-30-170 provides:

> At any hearing on appeal from a layoff or reduction in force, dismissal, suspension, demotion, reduction in pay, dismissal for abandonment or disability separation the appointing authority shall have the burden of supporting the charges upon which the action was initiated. At any other hearing, <u>the party filing the action shall have the burden of proof</u>.

(Emphasis added).

III. CONCLUSIONS OF LAW

3.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein in.

3.2 In a hearing on appeal of an alleged rule violation, Appellant has the burden of proof. WAC 358-30-170.

3.3 Although Appellant was provided notice of the hearing, he failed to appear. Therefore, he failed to meet his burden of proof, and the appeal should be dismissed.

IV. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Michael Brandell is dismissed.

DATED this _____ day of _____, 2004.

WASHINGTON STATE PERSONNEL APPEALS BOARD

_____
Walter T. Hubbard, Chair

_____
Busse Nutley, Member

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