

BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

LEONARD WATLEY,

Appellant,

vs.

WASHINGTON STATE DEPARTMENT  
OF AGRICULTURE,

Respondent.

CASE NO. R-DISM-06-006

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER OF THE BOARD

**I. INTRODUCTION**

1.1 **Hearing.** This matter came before the Washington Personnel Resources Board, MARSHA TADANO LONG, Chair, and LARRY GOODMAN, Vice Chair. The hearing was held on January 30 and 31, 2007, at the Personnel Resources Board office in Olympia, Washington.

1.2 **Appearances.** Appellant Leonard Watley was present and represented himself *pro se*. Janetta Sheehan, Assistant Attorney General, represented Respondent Washington State Department of Agriculture.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of dismissal for Appellant's refusal to perform the duties of his position.

**II. FINDINGS OF FACT**

2.1 Appellant Leonard Watley was a permanent employee for Respondent Washington State Department of Agriculture (WSDA). Appellant and Respondent are subject to Chapter 41.06 RCW and the rules promulgated thereunder at Title 357 WAC. Appellant filed a timely appeal with the Personnel Resources Board on June 26, 2006.

1 2.2 By letter dated June 21, 2006, Robert Gore, Deputy Director, notified Appellant of his  
2 dismissal for refusing to perform the duties of his Information Technology Specialist (ITS) 4  
3 position. Mr. Gore alleged that Appellant turned off the tape backup system for the Yakima  
4 computer network and sent an e-mail stating that he was no longer willing to be responsible for  
5 the Eastern Washington servers or the tape back-up of the servers. Appellant's dismissal was  
6 effective July 15, 2006.  
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8 2.3 Appellant began employment with WSDA in February 1996. At the time of his  
9 dismissal, Appellant was the ITS 4 located in the Yakima field office. He was also the ITS 4 for  
10 the other field offices located in Eastern Washington. Appellant was responsible for supporting  
11 network servers, including assuring that the data on the servers was backed up on a daily basis.  
12 In addition, he was responsible for supporting all of the computer hardware and software and the  
13 computer network in Eastern Washington and responding to service requests from staff located  
14 in Eastern Washington. Appellant was the sole IT resource for Eastern Washington until  
15 approximately October 2003. At that time, Bill Castillo was hired as an ITS to assist Appellant.  
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18 2.4 When Appellant was first assigned to the Yakima office, the Eastern Washington IT  
19 operations functioned independently from operations in Western Washington. However, in  
20 2003, Gary Maciejewski, Chief Technical Officer for WSDA, began a change process to  
21 centralize and standardize IT services. By email dated July 10, 2003, he shared a draft WSDA  
22 Server Strategic Direction document with IT staff.  
23

24 2.5 By email dated January 30, 2004, Mr. Maciejewski provided IT staff with a few more  
25 changes in work at the departmental level and directed staff to continue to provide cooperative  
26 assistance in reaching the goals of the strategic technology direction.  
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1 2.6 Appellant was aware of WSDA's IT change initiatives for centralized and standardized  
2 operations. Initially, the changes primarily impacted staff and services located in Western  
3 Washington. In Eastern Washington, Appellant continued to function and perform his duties and  
4 responsibilities as he always had, including purchasing new hardware as needed.  
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6 2.7 On October 5, 2005, Randy Ayers, IT Operations and Project Manager, became aware of  
7 a concern about some computer accounts for the Food Safety division in Eastern Washington.  
8 He raised these issues with Appellant by email on October 6, 2005. Mr. Ayers referenced  
9 coordinating efforts between the east side and the west side of the state. He also commended  
10 Appellant on doing a great job but reminded him to think about the impacts of change and to  
11 follow the change management process or communicate with other impacted IT staff before  
12 taking action.  
13

14 2.8 On October 10, 2005, Appellant responded to Mr. Ayers' email and sent a copy Mr.  
15 Maciejewski. Appellant closed his e-mail with the following statement, "This week could be the  
16 beginning of a more chaotic IT structure, if I change my attitude toward this Agency."  
17

18 2.9 On October 11, 2005, Mr. Maciejewski responded to Appellant. Mr. Maciejewski told  
19 Appellant that his intention to lead and change things at WSDA was not wavering and that he  
20 was scheduling a meeting with IT staff to increase his understanding of Appellant's issues and  
21 concerns. Mr. Maciejewski told Appellant that operational change in WSDA's IT division was  
22 happening and that he wanted Appellant and Bill Castillo to play a part in it and not just let it  
23 happen.  
24

25 2.10 On October 17, 2005, Appellant and the other IT staff, including Mr. Maciejewski and  
26 Mr. Ayers, attended an IT Operations Meeting. The purpose of the meeting was, in part, to  
27 understand points of view and correct any misperceptions about operations between Western  
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1 Washington and Eastern Washington and to set direction and expectations for IT staff regarding  
2 standardization, accountability, results and trust. Following the meeting, several staff members  
3 complained about Appellant's behavior during the meeting. On October 19, 2005, Mr. Ayers  
4 sent a memo to Mr. Maciejewski in which he described Appellant's behavior as very agitated,  
5 angry, and defensive. Mr. Ayres indicated that Appellant made it clear that he would not accept  
6 any more work and that he would not allow himself to be managed by Mr. Maciejewski or Mr.  
7 Ayers. Although Mr. Ayers reported his concerns about Appellant's behavior and asked that the  
8 matter be addressed, WSDA took no further action to correct Appellant's behavior.  
9

10 2.11 In December 2005, before the change efforts began impacting IT services in Eastern  
11 Washington, Mr. Maceijewski left employment with WSDA. In January 2006, John Swannack  
12 was appointed as the Acting Chief Technical Officer for WSDA. Mr. Swannack continued to  
13 implement the change efforts begun by Mr. Maceijewski.  
14

15 2.12 In January 2006, one of the WSDA IT standards was the use of 32-bit servers. Due to  
16 advances in technology, 64-bit servers were becoming the norm; however, the WSDA IT  
17 enterprise structure was not in the process of moving to 64-bit servers. During the week of  
18 January 30, 2006, Mr. Ayers was informed that Appellant had placed an order for 64-bit server  
19 and software for the Yakima office. Two of the servers in Yakima were due to be replaced  
20 because one was out of warranty and the other was due to be out of warranty in a few months. A  
21 lengthy series of email discussions about the new technology ensued between Appellant and  
22 other IT staff. Throughout the email discussions, many concerns and questions were raised.  
23 Because the use of 64-bit servers was a departure from WSDA standards and due to the number  
24 of unanswered questions, Mr. Swannack asked Mr. Ayers to cancel the order. On February 2,  
25 2006, Mr. Swannack sent Appellant an email instructing him to immediately suspend any work  
26 whatsoever on accepting delivery or installing the new server. He told Appellant that "a  
27 decision to move to new technology is an agency decision, not made locally nor without  
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1 consulting others who may be affected, including other program divisions.” He also told  
2 Appellant that he would be in touch over the next day or so to talk about next steps.

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4 2.13 On February 3, 2006, Appellant responded to Mr. Swannack that he would postpone the  
5 issue until further notice. Appellant commented that his approval had not been sought for other  
6 progress within the agency and stated that he understood the new technology, but was being  
7 limited because others lacked his understanding. Appellant asserted that the new technology  
8 would only impact the Yakima facility and that he was not creating a standard, but, rather, was  
9 replacing hardware which was something he had always done. Appellant sent a copy of his  
10 response to Mr. Ayers.

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12 2.14 On February 3, 2006, Mr. Ayers emailed Mr. Swannack and expressed his concerns that  
13 Appellant did not understand the importance of enterprise planning, agency strategic direction,  
14 business requirements, continuity planning, and portfolio management. Mr. Ayers suggested  
15 that while Appellant had been allowed to make decisions in the past, it was time to stop that  
16 practice.

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18 2.15 Subsequently, Mr. Ayers sent Appellant a meeting request to engage in a discussion  
19 about 64-bit servers. On February 10, 2006, at 11:47 a.m. Appellant declined the request. When  
20 Mr. Ayers asked him why, at 11:52 a.m., Appellant responded that “I’m not interested.”  
21

22 2.16 There is conflicting testimony about the order for the 64-bit server. Respondent provided  
23 credible testimony that after the initial order was canceled on February 6, 2006, the following  
24 day, Appellant reinstated the order. Mr. Ayers became aware of the reinstated order and  
25 canceled it on February 8, 2006. On February 10, 2006, Mr. Ayers notified Appellant that he  
26 had again canceled the order.  
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1 2.17 Appellant testified that he placed only one order for the server hardware and that what  
2 Respondent believed was a second order for the server was actually an address change  
3 confirmation. Neither Appellant nor Respondent presented copies of the actual purchase orders.  
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5 2.18 We find Appellant's version of the events surrounding the purchase order to be  
6 inconsistent with the facts. For example, the evidence establishes that in an email dated  
7 February 3, 2006, Appellant said that he would postpone the issue of the 64-bit server; yet, in an  
8 email dated February 10, 2006, to Mr. Swannack and the IT staff, Appellant states that "I was  
9 told this morning that an order that I had placed was canceled behind my back." But in his  
10 testimony before the Board, Appellant stated that a representative from the computer company  
11 had informed him that the order had been canceled before he was told my Mr. Ayers.  
12 Appellant's testimony regarding when he learned about the order being canceled is inconsistent  
13 with his email. Therefore we do not find Appellant's testimony in regard to the purchase orders  
14 credible.  
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17 2.19 Also in his February 10, 2006 email to Mr. Swannack and the IT staff, Appellant  
18 provided what he called his "change notification." Appellant stated that:

- 19
- 20 • I'm no longer willing to waste my time researching technology and I have  
21 canceled all news subscriptions.
  - 22 • The servers that reside in eastern Washington will be the responsibility of the  
23 network administrator of WSDA.
  - 24 • The tape backup for WSDA will be the sole responsibility of the backup  
25 administrator.
  - 26 • All acquisitions will be handled by Bill Castillo or a person of your choosing.
  - 27 • You can cancel my subscription to TechNet, I no longer need it. (It's a waste  
28 of money.)

29 Prior to sending the email, Appellant was responsible for the servers that resided in Eastern  
Washington, for the tape backup in Yakima, and for IT acquisitions for Eastern Washington.

1 2.20 Appellant testified that he sent the February 10, 2006, email to force a meeting with  
2 management to get clarification of his job duties and responsibilities. He sent the email at 11:53  
3 a.m. Yet at 11:47 a.m., he declined a meeting request sent by Mr. Ayers. We find Appellant's  
4 testimony regarding his reason for sending the email at 11:53 a.m. on February 10, 2006,  
5 disingenuous in light of his refusal merely 8 minutes prior to meet with Mr. Ayers.  
6

7 2.21 Bill Castillo credibly testified that on February 10, 2006, Appellant began removing his  
8 personal items out his office and the state-owned service van and that he parked the service van  
9 inside the gated area of the Yakima facility. Appellant regularly used the service van to  
10 commute to and from work because there was not enough space inside the gated area to park it.  
11 It was unusual for Appellant to leave the van parked at the Yakima office.  
12

13 2.22 Mr. Castillo testified that Appellant's primary responsibility was to handle network  
14 services and the backup system but he also handled helpdesk calls. After lunch on February 10,  
15 2006, Appellant began redirecting all customers' calls for service to Mr. Castillo.  
16

17 2.23 Mr. Castillo testified that Appellant taught him the tape backup system. To Mr.  
18 Castillo's knowledge the tape backup system was the only backup system in place in the Yakima  
19 office.  
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21 2.24 After receiving Appellant's February 10, 2006, email, Mr. Ayers was concerned, so he  
22 called Mr. Castillo. Mr. Castillo told him that it looked like Appellant had quit doing his job.  
23 Mr. Ayers was troubled by what Mr. Castillo told him and by Appellant's email, particularly  
24 Appellant's comment that he would no longer be responsible for the backup system. Later in the  
25 evening, Mr. Ayers called Mr. Castillo at home and asked him to return to the office to check on  
26 the backup tape.  
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1 2.25 The tape backup was scheduled to run at 8:00 p.m. daily. Mr. Castillo returned to the  
2 office at approximately 7:30 p.m. and found that the backup had been placed in hold status  
3 which disabled it from running. Mr. Castillo turned it back on, and at 7:22 p.m., he sent Mr.  
4 Ayers an e-mail to confirm what he had found.

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6 2.26 The backup system protects mission critical data for WSDA staff and stakeholders.  
7 Losing the data would have serious ramifications on the business of local growers, ranchers and  
8 others. Suspending the backup took a deliberate action which required going into the system  
9 itself and checking the box that would disable the backup from running. Disabling the backup  
10 could not have happened inadvertently.

11  
12 2.27 Following the Friday, February 10, 2006 incidents, John Swannack talked with staff.  
13 Based on Appellant's e-mail and his subsequent actions in the Yakima office, Mr. Swannack felt  
14 that Appellant had given notice that he was not going to do his job which caused Mr. Swannack  
15 to wonder if Appellant had quit. When Appellant came to work on the following Monday, Mr.  
16 Swannack placed him on home assignment and conducted an investigation. Mr. Swannack  
17 completed his investigation notes on February 24, 2006.

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19 2.28 Robert Gore was Appellant's appointing authority. He became aware of Appellant's  
20 conduct sometime after Appellant had been placed on home assignment. He reviewed Mr.  
21 Swannack's report and then, by letter dated April 17, 2006, scheduled a Loudermill hearing with  
22 Appellant to provide him with an opportunity to respond to the allegations of his "insubordinate  
23 behavior by reordering a server that had been cancelled by the Olympia office, [his] written  
24 refusal to perform the essential functions of [his] job and actions [he] took that knowingly placed  
25 agency data at risk when [he] purposely set the servers to not run their automated backup files  
26 according to protocol."  
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1 2.29 Mr. Gore met with Appellant on May 4, 2006. In addition, Appellant provided a written  
2 response to the allegations dated April 25, 2006. Appellant admitted that he sent the February  
3 10, 2006 email because he was frustrated because things had gotten out of hand and he wanted to  
4 force a meeting in order to discuss his concerns with management. He also admitted that he  
5 turned off the tape backup system. Appellant told Mr. Gore that he had a second backup product  
6 in place and that no data was put at risk when he disabled the tape backup system.  
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8 2.30 Following the meeting, Mr. Gore asked IT staff to investigate Appellant's claim of a  
9 second backup product. Staff found a product called "Power Quest" on the server. It was last  
10 run on February 7 and it did not back up the whole system. Randy Ayers credibly testified that  
11 "Power Quest" was not an authorized WSDA software product and that they were unable to  
12 locate a purchase order for the software.  
13

14 2.31 Appellant testified that he had a backup product he referred to as "Ghost" on the  
15 computer at his desk. Appellant claimed that he used "Ghost" to back up data. WSDA staff  
16 found no evidence of this backup product being in place and Appellant provided no evidence to  
17 collaborate his assertion. Therefore, we find that no WSDA authorized redundant backup system  
18 was installed to backup the servers in Yakima.  
19

20 2.32 After gathering all the information and considering Appellant's responses to the  
21 allegations, Mr. Gore determined that misconduct had occurred. Mr. Gore concluded that  
22 Appellant's purposeful act of turning off the tape backup system placed critical agency data at  
23 risk. He determined that due to Appellant's continued refusal to work as directed and to abide  
24 by rules, regulations and practices set by his supervisor and manager, he could not be trusted to  
25 have access to unprotected data. Appellant's experience and employment history at WSDA was  
26 in IT and Mr. Gore felt there was no position in the agency in which Appellant could work  
27 where he would not have access to critical data. Mr. Gore felt that during the Loudermill  
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1 hearing, Appellant showed no remorse or regret for his actions, but instead he continue to  
2 champion his decision to work uncooperatively and alone rather than within the larger enterprise  
3 IT group. Mr. Gore concluded that termination was the appropriate disciplinary sanction. Mr.  
4 Gore informed Appellant of his termination by letter dated June 21, 2006.

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### 8 **III. ARGUMENTS OF THE PARTIES**

9 3.1 Respondent argues that, as evidenced by his email and by his deliberate act to suspend  
10 the backup system, Appellant refused to perform the duties of his position. Respondent argues  
11 that as an IT professional, Appellant was responsible to provide computer support for the  
12 Yakima office and to adhere to standards and existing processes, including running the tape  
13 backup system, yet he failed to fulfill his responsibilities when he refused to do his job and  
14 deliberately suspended the tape backup system. Respondent contends that Appellant wanted to  
15 do things his own way and was resistant to WSDA's attempts to standardize and centralize IT  
16 operations. Respondent asserts that by his actions, Appellant has shown that he does not want to  
17 be a part of the WSDA system-wide IT division. Respondent contends that Appellant's  
18 purposeful, overt act of suspending the backup system was tantamount to computer sabotage and  
19 potentially put critical statewide data at risk. Respondent argues that Appellant can no longer be  
20 trusted to do his job or to have access to critical agency data. Therefore, Respondent contends  
21 that dismissal was the appropriate sanction.

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24 3.2 Appellant argues WSDA management had long taken a stand against him and that he had  
25 a right to know what was required of him and a right to request clear expectations from  
26 management. Appellant asserts that the civil service system is not designed to terminate a  
27 person because of a single email. Appellant argues that his email should be seen as a  
28 communication and not a refusal to do his work. Appellant admits that he disabled the tape  
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1 backup system and asserts that he did so to prevent the data on the backup from becoming  
2 corrupt. Appellant argues that he ran a special redundant backup system on the desk top  
3 computer in his office which protected the data. Therefore, he asserts that critical WSDA data  
4 was never put at risk. Appellant further argues that responsibility for the backup system located  
5 in Yakima was no longer his but rather was the responsibility of staff located in the Olympia  
6 office. Appellant asserts that he did not refuse to do his job or put critical WSDA data a risk and  
7 therefore, termination was not warranted.  
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#### 9 **IV. CONCLUSIONS OF LAW**

10 4.1 The Personnel Resources Board has jurisdiction over the parties and the subject matter.  
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12 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting  
13 the charges upon which the action was initiated by proving by a preponderance of the credible  
14 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the  
15 sanction was appropriate under the facts and circumstances. WAC 357-52-110.  
16

17 4.3 The issue before the Board is whether Appellant refused to perform the duties of his position  
18 as evidenced by his February 10, 2006 email and his admitted act of suspending the tape backup  
19 system in the Yakima office and if so, whether the disciplinary sanction of dismissal was  
20 appropriate.  
21

22 4.4 As the ITS 4 in Eastern Washington, Appellant was responsible, in part, for handling all  
23 network services, including assuring that the backup system operated according to standards and  
24 existing processes. The evidence clearly establishes that in his email, Appellant refused to fulfill  
25 the responsibilities of his position. Furthermore, Appellant admitted that he deliberately  
26 suspended operation of the tape backup system. Appellant's behavior was intentional and placed  
27 critical WSDA data at risk.  
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1 4.5 Having considered alternative levels of discipline, we agree with Respondent that under  
2 the proven facts and circumstances, dismissal was appropriate. Appellant's actions were  
3 egregious and irreparably damaged the trust WSDA placed in him as an IT professional.  
4 Appellant's deliberate actions created potential jeopardy to critical data and systems and placed  
5 the data and systems at risk. There were no levels of discipline, other than dismissal, that would  
6 have assured the security of the agency's critical data and systems.  
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8 4.6 Respondent has met its burden of proof and the appeal should be denied.  
9

10 **V. ORDER**

11 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Leonard Watley is denied.  
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13 DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

14 WASHINGTON PERSONNEL RESOURCES BOARD  
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16 \_\_\_\_\_  
17 MARSHA TADANO LONG, Chair  
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20 LARRY GOODMAN, Vice Chair  
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