

1 **BEFORE THE PERSONNEL RESOURCES BOARD**

2 **STATE OF WASHINGTON**

3 JONATHAN HARDEN, )

4 Appellant, )

5 v. )

PRB Case No. R-JUR-09-003

6 DEPARTMENT OF CORRECTIONS, )

7 Respondent. )

**ORDER OF DISMISSAL**

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9 This matter came before the Personnel Resources Board, JOSEPH PINZONE, Chair; LAURA  
10 ANDERSON, Vice Chair; and DJ MARK, Member, for dismissal pursuant to WAC 357-52-215 and  
11 WAC 357-52-220.

12 WAC 357-52-215 provides, in relevant part:

13 The board may dismiss an appeal on its own motion when:

14 . . .

15 (4) The board lacks jurisdiction over the subject matter or parties to the appeal . . .

16  
17 On June 9, 2009, the Personnel Resources Board received Jonathan Harden's appeal form requesting  
18 an appeal of his dismissal from Monroe Correctional Complex. When new appeals are filed Board  
19 staff routinely contacts the employing agency to determine whether the appeal is timely and within  
20 the Board's jurisdiction. Board staff learned that Mr. Harden's employment and position were  
21 covered by a collective bargaining agreement between Teamsters Local Union #117 and the State of  
22 Washington. Therefore, it appeared that the Personnel Resources Board lacked jurisdiction to hear  
23 this matter.

24 Because it appeared that Mr. Harden's position was not subject to the jurisdiction of the Board, by  
25 letter dated June 10, 2009, Board staff directed the parties to provide written argument addressing

1 the Board's jurisdiction in this matter. The parties were informed that the written argument was due  
2 within twenty-one (21) calendar days of the date of the letter. The parties were also informed that if  
3 the information provided failed to show that Mr. Harden's appeal fell within the jurisdiction of the  
4 Board, the matter may be presented to the Board for dismissal under the provisions of WAC 357-52-  
5 215.

6  
7 On June 30, 2009, Department of Corrections filed a written response arguing that Mr. Harden's  
8 position was covered by the collective bargaining agreement and that the Board lacked jurisdiction to  
9 hear this matter. Mr. Harden did not provide a response.

10 Appeal rights for state civil service employees are provided by RCW 41.06.170, which states, in part:

11 . . . (2) Any employee who is reduced, dismissed, suspended, or demoted, after  
12 completing his or her probationary period of service as provided by the rules of the  
13 director, or any employee who is adversely affected by a violation of the state civil  
14 service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to  
15 appeal, either individually or through his or her authorized representative, not later  
16 than thirty days after the effective date of such action . . . to the Washington  
17 personnel resources board after June 30, 2005. . . .

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 RCW  
21 41.80.001 and 41.80.010 through 41.80.130.

22 (Emphasis added).

23 In addition, the Board's rules provide that only employees subject to the statutory jurisdiction of the  
24 Board may appeal dismissal actions. (See WAC 357-52-010).

25 On July 6, 2009, Board staff served the parties with a Notice of Potential Dismissal. The notice  
26 stated that Mr. Harden's position and the action appealed were covered by the terms of the collective  
bargaining agreement and that it appeared the Board lacked jurisdiction in the matter. The notice also  
stated that the appeal would be dismissed unless, within fifteen (15) calendar days following the date

1 of service of the notice, the Board received a written request showing good cause why the appeal  
2 should not be dismissed.

3  
4 Neither party submitted a response to the notice.

5 In this case, Mr. Harden's position and the action appealed are covered by the terms of the collective  
6 bargaining agreement. As a result, the Board lacks jurisdiction in the matter and the appeal should be  
7 dismissed.

8  
9 The Board having reviewed the file and records herein, being fully advised in the premises, now  
10 enters the following:

11 **ORDER**

12 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Jonathan Harden v. Department  
13 of Corrections, PRB Case No. R-JUR-09-003, is dismissed.

14 DATED AND MAILED this \_\_\_\_ day of \_\_\_\_\_, 2009.

15 **WASHINGTON PERSONNEL RESOURCES BOARD**

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17 \_\_\_\_\_  
18 JOSEPH PINZONE, Chair

19 \_\_\_\_\_  
20 LAURA J. ANDERSON, Vice Chair

21 \_\_\_\_\_  
22 DJ MARK, Member  
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