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DARRELL RODEEN,

Case No. R-DISM-07-006

## ORDER GRANTING RESPONDENT'S MOTION TO DISMISS

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1.1 **Consideration of Motion.** This matter came before the Personnel Resources Board, LAURA ANDERSON, Chair; MARSHA TADANO LONG, Vice Chair; and JOSEPH PINZONE, Member, for consideration of written argument.

1.3 **Documents Considered.** The Board considered the files and documents in this matter, including Respondent's Motion to Dismiss, with attachments, filed November 9, 2007. Appellant did not file a response to the motion.

2.1 Appellant was employed at WSU as a Custodian when he received a letter from his appointing authority, Lawrence E. Davis, Associate Vice President for Facilities operations at WSU, dismissing him from his position for misconduct. The dismissal letter was dated June 28, 2007, with an effective date of July 16, 2007.

PERSONNEL RESOURCES BOARD  
2828 Capitol Blvd.  
OLYMPIA, WA 98504-0911

1 from Mr. Rodeen. In that written resignation, Mr. Rodeen indicated that he was resigning effective June  
2 29, 2007, and that he wanted his accumulated annual leave paid out to him in a lump sum. Mr.  
3 Rodeen's disciplinary action never took effect.

4 2.3 Mr. Parrish delivered Mr. Rodeen's written resignation to Pamela D. Hillard, Executive  
5 Director for Facilities Support Services at WSU. Ms. Hillard is an alternate appointing authority in the  
6 absences of Mr. Davis. Ms. Hillard sent Mr. Rodeen a letter accepting his resignation in lieu of the  
7 pending disciplinary action and advising him that should he return to employment at WSU the  
8 disciplinary action may be revived. The final Personnel Action Form for Mr. Rodeen indicated that he  
9 separated from employment at WSU due to his resignation.

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

11 3.1 Respondent argues that the written documents clearly indicate that Mr. Rodeen resigned from  
12 his Custodian position at WSU and that his prior dismissal did not take effect. Respondent asserts that  
13 since WSU advised Mr. Rodeen that they were accepting his resignation in lieu of discipline and that  
14 should he be reinstated they may revive the disciplinary action, there is no disciplinary action over  
15 which this Board can exercise jurisdiction. WSU points out that Mr. Rodeen was reminded of his  
16 resignation in writing on July 3, 2007, yet Mr. Rodeen failed to contact WSU to advise them that he had  
17 not intended to resign. Respondent argues that there is no remedy that can be granted when there was  
18 no discipline.

19 3.2 Appellant did not file a response to the motion.  
20

### 21 **IV. DISCUSSION**

22 4.1 The Board has jurisdiction to hear appeals of any employee who is reduced, dismissed,  
23 suspended, or demoted, after completing his or her probationary period of service as provided by the  
24 rules of the director, or any employee adversely affected by a violation of the state civil service law,  
25 chapter 41.06 RCW, or the rules adopted under it. [See RCW 41.06.170(2)].  
26

1  
2 4.2 The question here is whether an action exists over which the Board can exercise jurisdiction.

3 4.3 Appellant tendered his resignation well prior to the effective date of his dismissal. He was  
4 advised that his resignation was accepted in lieu of discipline. The disciplinary action did not take  
5 effect. Therefore, no action exists over which we can exercise jurisdiction or grant a remedy, and the  
6 appeal of Darrell Rodeen should be dismissed.

7 Having reviewed the files and records in this matter and being fully advised in the premises, the Board  
8 enters the following:

9 **V. ORDER**

10 NOW, THEREFORE, IT IS HEREBY ORDERED that the Respondent's Motion to Dismiss is granted  
11 and the appeal of Darrell Rodeen is denied.

12 DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

13 WASHINGTON PERSONNEL RESOURCES BOARD

14 \_\_\_\_\_  
15 LAURA ANDERSON, Chair

16 \_\_\_\_\_  
17 MARSHA TADANO LONG, Vice Chair

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19 JOSEPH PINZONE, Member  
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