

1 believed that it would be considered filed on the date that he placed it in the mail. Appellant asserts
2 that he mailed his request for review on Friday, February 8, 2008, which was the thirtieth day
3 following his receipt of DOT's decision. Because it was his understanding that his request was to be
4 postmarked within thirty days, Appellant asks the Board to consider his request timely.

5 **Summary of Respondent's Arguments.** Respondent argues that consistent with the rules and the
6 Board's prior decisions on timeliness, Appellant's request for review was untimely. Respondent
7 stated that in their determination letters, they quote the civil service rule regarding filing a director's
8 review request. Respondent noted that they could make a process improvement in their letters by
9 emphasizing that requests for review must be received by the Department of Personnel within thirty
10 days of receipt of the letter. Nonetheless, Respondent argues, that in this case, the request for review
11 was untimely.

12
13 **Primary Issue.** Whether the director's determination that Appellant's request for review was
14 untimely should be affirmed.

15
16 **Relevant Laws and Civil Service Rules.** RCW 41.06.170(4) provides, in relevant part, "[a]n
17 employee incumbent in a position at the time of its allocation or reallocation, or the agency
18 utilizing the position, may appeal the allocation or reallocation . . . to the personnel resources
19 board . . . Notice of such appeal must be filed in writing within thirty days of the action from
20 which appeal is taken."

21 Consistent with WAC 357-49-017, a director's review is the initial step in the appeal process for
22 employee allocation or reallocation requests.

23
24 WAC 357-13-080(1) provides, "[a]n employee may request a director's review of the results of a
25 position review or reallocation of the employee's position The employee must request the
26 director's review within thirty calendar days of being provided the results of a position review or
27 the notice of reallocation."
28
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1 WAC 357-04-105 establishes to how notices are to be provided or served on job applicants, job
2 candidates, employees or employers. The rule provides, in relevant part, that service upon parties
3 “will be regarded as completed . . . upon deposit in the United States mail . . .” This rule does
4 not apply to notices or papers that are to be filed with the director or the board.
5

6 WAC 357-49-023 provides, in relevant part, “[p]apers that must be filed with the director for
7 director’s review requests are considered to be filed only when the papers are actually received
8 in the director’s review office in Olympia, Washington.”
9

10 **Decision of the Board.** Respondent provided its letter denying Appellant’s reallocation request to
11 Appellant by e-mail. As provided in WAC 357-04-105, Appellant was served with DOT’s denial of
12 his reallocation request on January 9, 2008, the date that he received the letter.
13

14 On February 11, 2008, the director received Appellant’s request for review of DOT’s decision.
15 In accordance with WAC 357-49-023, Appellant’s request was considered filed on February 11,
16 2008.

17 Appellant’s review request was filed thirty-three days after service of Respondent’s response to
18 his reallocation request.
19

20 While the Board understands that Appellant believed he had filed a timely request for review, the
21 Board may not waive the jurisdictional timelines found in statute. However, because more than
22 six months have passed since his request for review, Appellant may exercise his right to request
23 a new review of his current duties and responsibilities.

24 Finally, the Board appreciates DOT’s recognition of the need to modify the language used in
25 their decision letters. We encourage DOT’s human resource staff to take steps to assure that the
26 department’s employees are provided clear information and a fair opportunity to exercise their
27 right to request a review.
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1 In a hearing on exceptions, the Appellant has the burden of proof. WAC 357-52-110. Appellant has
2 failed to meet his burden of proof. As provided in the applicable law and rules, and consistent with
3 prior Board decisions, Appellant's request for a director's review was untimely filed and the appeal
4 should be denied.

5
6 **ORDER**

7 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Dean Holman
8 is denied and the director's determination dated March 24, 2008, is affirmed and adopted.

9 DATED this ____ day of _____, 2008.

10 WASHINGTON PERSONNEL RESOURCES BOARD

11
12 _____
13 MARSHA TADANO LONG, Chair

14
15 _____
16 JOSEPH PINZONE, Vice Chair