BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

CHARLES HARDING, Appellant, v. DEPARTMENT OF CORRECTIONS, Respondent.	)))))))))	PRB Case No. R-JUR-11-003 **ORDER OF DISMISSAL**

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

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

> The board may dismiss an appeal on its own motion when:
> . . .
> (4) The board lacks jurisdiction over the subject matter or parties to the appeal. . . .

On March 22, 2011, Charles Harding filed an appeal of his layoff from his Corrections and Custody Officer 2 position at the Washington Corrections Center for Women. Based on the information Mr. Harding provided with his appeal, the position from which he was laid off was covered by a collective bargaining agreement.

Because Mr. Harding's position was covered by a collective bargaining agreement, it appeared that the Board lacked jurisdiction in this matter. By letter dated March 23, 2011, Board staff directed the parties to provided written argument addressing the Board's jurisdiction. Written arguments were due within twenty-one days of the March 23, 2011, letter. Neither party submitted written argument.

RCW 41.06.170 provides, in relevant part, that

> (2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the director, or any

> employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action . . . to the Washington personnel resources board after June 30, 2005. . . .
>
> (5) Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130.
>
> (Emphasis added).

On April 18, 2011, Board staff served the parties with a Notice of Potential Dismissal. The notice stated that the appeal would be dismissed unless, within fifteen calendar days following the date of service of the notice, the Board received a written request showing good cause why the appeal should not be dismissed. Neither party submitted a request.

In this case, at the time of Mr. Harding's layoff, his position and the terms of his employment were covered by a collective bargaining agreement. Therefore, the Board lacks jurisdiction in this matter.

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

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal request of Charles Harding vs. Department of Corrections, PRB Case No. R-JUR-11-003, is dismissed.

DATED AND MAILED this _____ day of _____, 2011.

WASHINGTON PERSONNEL RESOURCES BOARD

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LAURA ANDERSON, Chair

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DJ MARK, Vice Chair

JOSEPH PINZONE, Member