

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-002-13

(MANAGEMENT TRIAL SERVICE DISMISSAL)

RANDALL CULVER,	)
	)
Appellant,	)
	)
v.	)
	)
STATE OF OREGON, DEPARTMENT	)
OF HUMAN SERVICES FOR AGING	)
AND PEOPLE WITH DISABILITIES,	)
	)
Respondent.	)
_____	)

ORDER OF DISMISSAL

Randall Culver, Eatonville, Washington, appeared *pro se*.

Stephen D. Krohn, Interim Attorney-in-Charge, Labor and Employment Section, Department of Justice, Salem, Oregon, represented Respondent.

On April 22, 2013, Appellant Randall Culver filed this appeal, alleging that the State of Oregon, Department of Human Services for Aging and People with Disabilities (Department), unlawfully removed him from management trial service, effective April 11, 2013.

On April 23, 2013, Administrative Law Judge (ALJ) B. Carlton Grew sent a letter to the parties indicating that the Board appeared to lack the authority to review the Department's decision. The ALJ asked the Appellant to provide any additional factual allegations or arguments showing why the appeal should not be dismissed. Appellant did not respond. Thereafter, the ALJ transferred the case to the Board with the recommendation that the appeal be dismissed.

For purposes of this Order, we assume that the allegations in the appeal are true. We also rely on undisputed facts discovered during our investigation. *Miller v. State of Oregon, Department of Human Services, Seniors and People with Disabilities*, Case No. MA-010-10 (April 2011).

Under 240.570(3),

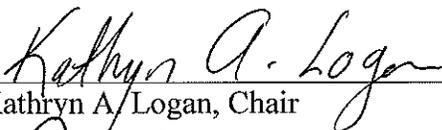
“[a] management service employee is subject to a trial service period established pursuant to rules of the Personnel Division under ORS 240.250. Thereafter, the management service employee may be disciplined by reprimand, salary reduction, suspension or demotion or removed from the management service if the employee is unable or unwilling to fully and faithfully perform the duties of the position satisfactorily.”<sup>1</sup>

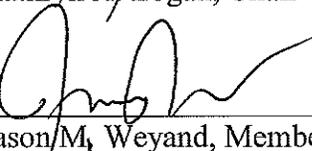
This Board has consistently held that it has no authority to review appeals from management service employees who are removed during a trial service period, as set forth in ORS 240.570(3). *Tucker v. State of Oregon, Department of Human Services*, Case No. MA-06-11 (September 2011); *Jackson-Graves v. State of Oregon, Department of Justice, Division of Child Support*, Case No. MA-11-05 (January 2006); *Taylor v. State of Oregon, Department of Corrections*, Case No. MA-04-00 (May 2000); *In the Matter of the Petition of the Executive Department, State of Oregon, for a Declaratory Ruling*, Case No. DR-8-85, 8 PECBR 8271, 8273 (1985). Here, it is undisputed that, at the time of Culver’s removal, he was in such a trial service period. Consistent with the terms of ORS 240.570(3) and our precedent, we lack the authority to hear this appeal, and we will dismiss it.

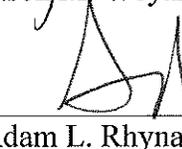
ORDER

The appeal is dismissed.

DATED this 23 day of May 2013.

  
Kathryn A. Logan, Chair

  
Jason M. Weyand, Member

  
Adam L. Rhynard, Member

This Order may be appealed pursuant to ORS 183.482.

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<sup>1</sup>Under ORS 240.570(4), employees who are disciplined or removed from the management service for the reasons specified in subsection (3) may appeal such actions to this Board in the manner provided by ORS 240.560.