

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-020-12

(MANAGEMENT SERVICE RECLASSIFICATION)

MICHELLE MORIN,	)	
	)	
Appellant,	)	
	)	
v.	)	DISMISSAL ORDER
	)	
STATE OF OREGON, DEPARTMENT OF	)	
ADMINISTRATIVE SERVICES,	)	
	)	
Respondent.	)	

Michelle Morin, Salem, Oregon, *pro se* Appellant.

Tessa Sugahara, Attorney-in-Charge, Labor and Employment Section, Department of Justice, Salem, Oregon, represented Respondent.

On August 9, 2012,<sup>1</sup> Appellant Michelle Morin filed this appeal alleging that the State of Oregon, Department of Administrative Services (DAS) erred when it reclassified her former position of Principal Executive Manager A to an Accounting Technician 3, which is a classified represented position. She asserts her current position should be classified as either an Accountant 2 or an Accountant 3.

On August 20, Administrative Law Judge (ALJ) Peter A. Rader sent a letter to Morin asking her to show cause why the appeal should not be dismissed due to the Employment Relations Board's (ERB) lack of jurisdiction over management service reclassification matters and because the appeal was filed prematurely. On August 23, ALJ Rader sent a second letter to the parties, indicating he had reconsidered his earlier opinion and concluded ERB did have jurisdiction because the reclassification was taken pursuant to a reorganization.<sup>2</sup> ALJ Rader asked the parties to submit a response by September 14 if they disagreed with his conclusion.

<sup>1</sup>Unless otherwise indicated, all remaining dates occurred in 2012.

<sup>2</sup>Under ORS 240.570(4), employees may appeal a removal from management service due to a reorganization.

On September 14, DAS filed a response, stating that the classification decision is not reviewable by the Board. ALJ Rader sent a response on September 25, asking Morin to show cause why her appeal should not be dismissed because the ERB lacked jurisdiction. Morin did not respond. Thereafter, ALJ Rader transferred the case to the Board with a recommendation that the appeal be dismissed.

For purposes of this Order, we assume 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 (2011).

Morin is appealing the placement of her position in the represented classification of Accounting Technician 3 rather than Accountant 2 or 3. ORS 240.086 permits this Board to review personnel actions affecting employees who are not in a certified or recognized collective bargaining unit. Morin, however, is asking this Board to review whether she was placed in the appropriate SEIU-represented classification. We have no statutory authority to do so. *See also Knutzen v. Department of Insurance and Finance, Oregon Occupational Safety and Health Division*, Case No. MA-13-92 (May 1993), order on reconsideration (June 1993), *rev'd and rem'd*, 129 Or App 565, 879 P2d 1335 (1994), order on remand (November 1994).

As Morin's appeal does not meet the limited appeal categories set forth in the statute, this Board does not have jurisdiction of this matter.

The appeal will be dismissed.

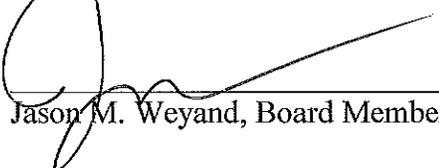
ORDER

The appeal is dismissed.

DATED this 13 day of November 2012.

  
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Susan Rossiter, Board Chair

  
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Kathryn A. Logan, Board Member

  
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Jason M. Weyand, Board Member

This Order may be appealed pursuant to ORS 183.482.