

October 5 to respond, did not file a response. Thereafter, ALJ Grew 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).

Prior to September 1, 2012, Benda's position was classified as a Project Manager 3 in the management service. She was notified that effective September 1, her position status would change from management service to classified represented, although her position classification would remain as a Project Manager 3. Her position would now be included in the SEIU bargaining unit. The effect of this change was to reduce both her vacation accrual rate and salary, and require her to pay 1.7% of her base salary as union dues or fair share fees to SEIU.

Benda asks this Board to return her position to management service status. We have no authority to do so.

ORS 240.570 (2) provides:

“An appointing authority may assign, reassign and transfer management service employees for the good of the service and may remove employees from the management service due to reorganization or lack of work.”

ORS 240.570 (4) provides:

“[Management Service] Employees who are assigned, reassigned, transferred or removed, as provided in subsection (2) of this section, and employees who are disciplined or removed from the management service for the reasons specified in subsection (3) of this section may appeal to the Employment Relations Board in the manner provided by ORS 240.560.”

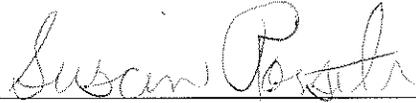
While Benda was removed from management service, she was not removed due to either a reorganization or lack of work.

Benda also asks us to reclassify her current represented position, restore her previous salary level and reconsider her position's duties and expectations. While this Board has jurisdiction under ORS 240.086 for certain personnel actions, we can only review personnel actions that affect employees who are not in a certified or recognized bargaining unit. *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). All of these matters that Benda wants us to review involve personnel actions regarding her position in the SEIU bargaining unit. We lack jurisdiction to review those actions. Therefore, this appeal will be dismissed.

ORDER

The appeal is dismissed.

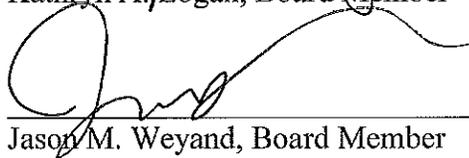
DATED this 13 day of November 2012.



Susan Rossiter, Board Chair



Kathryn A. Logan, Board Member



Jason M. Weyand, Board Member

This Order may be appealed pursuant to ORS 183.482.