

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-026-12

(MANAGEMENT SERVICE REMOVAL)

ALICE TRUE,)	
)	
Appellant,)	
)	
v.)	DISMISSAL ORDER
)	
STATE OF OREGON, OREGON YOUTH)	
AUTHORITY,)	
)	
Respondent.)	

Alice True, Albany, Oregon, *pro se* Appellant.

Sylvia Van Dyke, Assistant Attorney General, Labor and Employment Section, Department of Justice, Salem, Oregon, represented Respondent.

On September 26, 2012, Appellant Alice True filed this appeal alleging that the State of Oregon, Oregon Youth Authority (OYA) removed her from management service and placed her into classified service, resulting in a loss of pay and vacation accrual. She alleges this nondisciplinary removal occurred due to OYA reviewing its management service positions pursuant to House Bill 2020.¹

On September 27, 2012, Administrative Law Judge (ALJ) B. Carlton Grew sent a letter to True asking her to show cause why the appeal should not be dismissed because the Employment Relations Board lacked jurisdiction of the matter. True did not file a response. Thereafter, ALJ Grew transferred the case to the Board with a recommendation that the appeal be dismissed.

¹HB 2020 required the Department of Administrative Services to develop a plan for certain state agencies to “attain a ratio of 11 to 1 of public employees to supervisory employees and managerial employees acting in a supervisory capacity.”

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, True's position was classified as an Executive Support Specialist in the management service. She was notified that effective September 1, her position status would change from management service to classified represented, and her position would now be included in the SEIU bargaining unit. The effect of this change was a reduction in her vacation accrual rate and a requirement that she pay 1.7% of her base salary plus a flat fee of \$2.75 as union dues or fair share fees to SEIU.

True asks this Board to review the position status change because some, but not all, Executive Support Specialist positions were changed from management service to classified represented. She asserts that the change in position status was inconsistent and arbitrary, resulting in gender bias and inequality.

OYA reviewed its management service positions and determined True should no longer be categorized as such. OYA then changed her position status from management service to classified represented.

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."

Under these statutes, management service employees have limited appeal rights of personnel actions. *Herron v. State of Oregon, Department of Corrections*, Case No. MA-20-03 (November 2003) (Board dismissed management service correctional lieutenant's appeal of his position reclassification to classified correctional sergeant represented by a union). This Board has no authority to review OYA's decision to change the status of True's position.

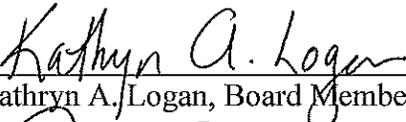
ORDER

The appeal is dismissed.

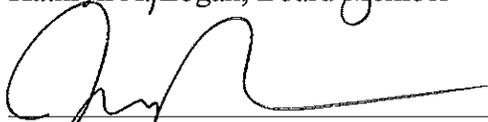
DATED this 13 day of November 2012.



Susan Rossiter, Board Chair



Kathryn A. Logan, Board Member



Jason M. Weyand, Board Member

This Order may be appealed pursuant to ORS 183.482.