EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-036-12

(MANAGEMENT SERVICE ALLOCATION)

MARY ALBERTSON, Appellant, v. STATE OF OREGON, OREGON DEPARTMENT OF HUMAN SERVICES, CENTRAL SERVICES, OFFICE OF ADULT ABUSE PREVENTION AND INVESTIGATIONS, Respondent.	)))))))))))))	DISMISSAL ORDER

Mary Albertson, Salem, Oregon, appeared *pro se*.

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

On October 26, 2012, Appellant Mary Albertson filed this appeal alleging that the State of Oregon, Oregon Department of Human Services, Central Services, Office of Adult Abuse Prevention and Investigations (DHS) unlawfully designated her position as classified represented rather than management service.

On October 31, 2012, Administrative Law Judge (ALJ) Wendy L. Greenwald sent a letter to the parties asking them to show cause why the appeal should or should not be dismissed because the Employment Relations Board lacked jurisdiction of the matter. DHS filed a timely response. Thereafter, ALJ Greenwald 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 October 1, 2012, Appellant's position status was as a Management Service Managerial (MMN). The position status was changed, effective October 1, 2012, to Classified Represented. Appellant argues that this change creates an undue hardship as it affects her salary and benefits package. Appellant asks that her vacation accrual rate be restored and that she be granted a one-half step salary increase to compensate for lost earnings. This Board has no authority to take such action.

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."

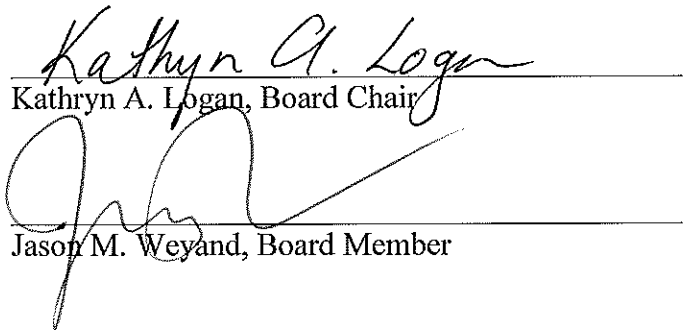
Under these statutes, management service employees have limited appeal rights of personnel actions. *Herron v. State of Oregon, Department of Corrections*, Case No. MA-20-03 (November 2003) (Board dismissed management service correctional lieutenant's appeal of his position reclassification to classified correctional sergeant represented by a union). While Appellant and her position have been removed from management service, she was not removed due to reorganization or lack of work. Rather, she was removed due to DHS's determination that her position status did not warrant remaining in management service. The statute does not provide for an appeal regarding either the change in position status or the designation of one's position as management or classified service.

As Albertson'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 10 day of January 2013.



Kathryn A. Logan, Board Chair

Jason M. Weyand, Board Member

This Order may be appealed pursuant to ORS 183.482.