

EMPLOYMENT RELATIONS BOARD
OF THE
STATE OF OREGON
Case No. MA-015-15
(MANAGEMENT SERVICE LAYOFF)

DEBORAH WESTON,)
)
 Appellant,)
)
 v.) DISMISSAL ORDER
)
 STATE OF OREGON, OREGON HEALTH)
 AUTHORITY,)
)
 Respondent.)
 _____)

Deborah Weston, Portland, Oregon, appeared *pro se*.

Yael Livny, Assistant Attorney General, Labor and Employment Section, Department of Justice, Salem, Oregon represented Respondent.

On September 1, 2015, Appellant filed this appeal alleging that Respondent unlawfully reduced her salary. This salary reduction occurred when Respondent reorganized, resulting in the abolishment of Appellant’s Principal Executive/Manager D position in the management service. Appellant was restored to an Operations and Policy Analyst 3 (OPA 3) position in the classified service, resulting in a monthly salary reduction of \$517.00.

On September 21, 2015, Respondent requested that the appeal be dismissed because this Board lacked jurisdiction. On October 4, 2015, Appellant responded to Respondent’s request for dismissal, stating that she was appealing the salary reduction as a violation of DAS Statewide Policy 30.005.01 or, in the alternative, Policy 20.005.10. She specifically stated that she was not appealing the abolishment of her position or the establishment of a new position, nor was she requesting to be returned to her management service position. On October 6, 2015, Administrative Law Judge Julie Reading, transferred this 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 (April 2011).

Appellant was removed from management service due to Respondent's reorganization. She does not challenge her removal. Rather, she challenges the loss of salary due to her placement in a classified position, claiming that certain DAS statewide policies were violated. Because this is not a management service personnel action listed in ORS 240.570, this Board does not have "authority to set aside or modify a personnel action that is in violation of a personnel rule." *Knutzen v. Dept. of Ins. and Finance*, 129 Or App 565, 569, 879 P2d 1335 (1994).

As Appellant's appeal does not state a claim for which this Board has jurisdiction, the appeal will be dismissed. The hearing scheduled for December 8, 2015, will be cancelled.

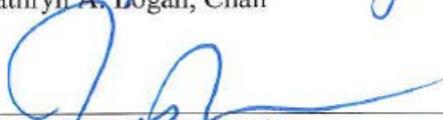
ORDER

1. The hearing scheduled for December 8, 2015, is cancelled.
2. The appeal is dismissed

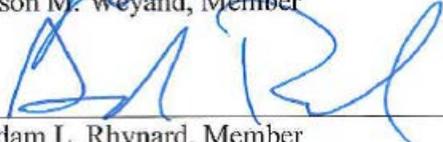
DATED this 5 day of November 2015.



Kathryn A. Logan, Chair



Jason M. Weyand, Member



Adam L. Rhynard, Member

This Order may be appealed pursuant to ORS 183.482