

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-15-04

(TRIAL SERVICE REMOVAL)

LAURIE THORSON,)
)
 Appellant,)
)
 v.)
) DISMISSAL ORDER
 STATE OF OREGON,)
 DEPARTMENT OF HUMAN SERVICES,)
 MEDFORD CHILD WELFARE OFFICE,)
)
 Respondent.)
 _____)

Laurie Thorson, [REDACTED] pro se.

Donna Sandoval Bennett, Attorney-in-Charge, Labor and Employment Section, Department of Justice, 1162 Court Street N.E., Salem, Oregon 97301-4096, represented Respondent.

On November 29, 2004, Appellant Laurie Thorson filed a timely appeal of the the November 19, 2004 decision of the Department of Human Services' (DHS) to remove her from trial service. The case was assigned to Administrative Law Judge (ALJ) Vickie Cowan for processing. After investigation and receipt of DHS' January 10, 2005 motion to dismiss for lack of jurisdiction, the ALJ sent a warning letter to Appellant on January 13, 2005, indicating that she would recommend dismissal of the appeal unless Appellant could convince her to the contrary by January 27, 2005. Appellant did not respond.

Background

DHS employed Appellant Thorson as an office specialist 2. Appellant's classification was covered by the 2003-2005 collective bargaining agreement between SEIU and the Oregon Department of Administrative Services. Specifically, that contract provides:

"ARTICLE 1--PARTIES TO THE AGREEMENT

"This Agreement is entered into between the Service Employees International Union (SEIU) Local 503, Oregon Public Employees Union (OPEU), AFL-CIO, CLC (Union) and the State of Oregon (Employer) acting by and through the Department of Administrative Services (Department) on behalf of the following Agencies: * * * Department of Human Services Non-Institutions * * *

"* * * * *

"ARTICLE 49--TRIAL SERVICE

"* * * * *

"Section 5. Trial service employees may be removed from service when, in the judgment of the Appointing Authority, the employee is unable or unwilling to perform his/her duties satisfactorily or his/her habits and dependability do not merit continuance in the service. Removals under this Article are not subject to the Grievance and Arbitration Procedure."

ORS 240.086, the statute conferring jurisdiction on the Employment Relations Board to resolve state employee appeals, prohibits this Board from adjudicating State Personnel Relations Law (SPRL) appeals where the affected employee is a member of a bargaining unit. Specifically, ORS 240.086(1) provides that this Board shall:

"Review any personnel action affecting an employee, *who is not in a certified or recognized appropriate collective bargaining unit*, that is alleged to be arbitrary or contrary to law or rule, or taken for political reason, and set aside such

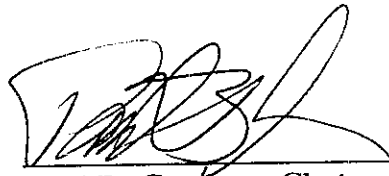
action if it finds these allegations to be correct." (Emphasis added.)

Appellant is an employee in a recognized or certified bargaining unit and therefore is not covered under by provisions of the SPRL. We will dismiss this case for lack of jurisdiction. See *Loftus v. Board on Public Safety Standards and Training*, Case No. MA-8-95 (July 1995); and *Voshell v. Oregon Health Sciences University*, Case No. MA-7-86 (June 1986)

ORDER

The appeal is dismissed.

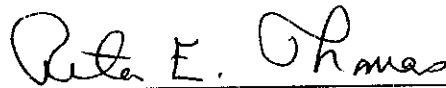
DATED this 9th day of February 2005.



Paul B. Gamson, Chair



James W. Kasameyer, Board Member



Rita E. Thomas, Board Member

This Order may be appealed pursuant to ORS 183.482