

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-15-07

(MANAGEMENT SERVICES APPEAL)

J MICHAEL SLINKER,)
)
 Appellant,)
)
 v)
)
 OREGON UNIVERSITY SYSTEM,)
 OREGON INSTITUTE OF)
 TECHNOLOGY,)
)
 Respondent.)
)

DISMISSAL ORDER

J. Michael Slinker, [REDACTED] *pro se*

Linda J. Kessel, Senior Assistant Attorney General, Labor and Employment Section, Department of Justice, 1162 Court Street NE, Salem, Oregon, 97301-4096, represented Respondent.

On November 6, 2007, J. Michael Slinker filed this appeal concerning actions taken by his employer, the Oregon University System, Oregon Institute of Technology (OIT). Although Slinker did not identify the statute governing his appeal, we construe it as a claim for relief under the State Personnel Relations Law (SPRL), ORS 240.005 *et seq.* Slinker alleges that OIT removed him from his positions as Vice President for University Advancement and Executive Director of the Oregon Tech Foundation, and reassigned him to the position of Assistant to the President for Special Projects. Slinker alleges that OIT took these actions in retaliation for his assertion that the Foundation was independent from OIT.

On November 21, 2007, OIT filed a motion to dismiss Slinker's appeal. OIT argues that this Board lacks jurisdiction over the appeal. We agree and accordingly will dismiss the appeal.

OIT is part of the Oregon University System (OUS). ORS 352.002(4). OUS was subject to the provisions of ORS chapter 240 (SPRL) until 1995, when the legislature enacted SB 271 (1995 Or Laws, ch 612). Under that law, with exceptions not pertinent here, SPRL no longer applies to OUS. ORS 351.086(1).¹ In *Huntley v. Oregon Institute of Technology*, MA-19-96 (January 1997), this Board examined the 1995 amendments in detail and concluded as follows:

“Considered together, these statutory changes evidence a clear legislative intent to remove [OUS] and its employees from the personnel system established by the SPRL, including this Board’s jurisdiction over appeals from unrepresented classified employees and management service employees, and to grant [OUS] more authority and discretion in dealing with its employees.”

Slinker does not dispute that under the relevant statutes and case law, this Board lacks jurisdiction over his appeal. He argues instead that Article I, Sections 10,² 20,³ and 33⁴ of the Oregon Constitution provide him with “specific rights which would be terminated if the ‘Respondent’s Motion to Dismiss’ is approved.” (Appellant’s Response to Motion to Dismiss at 1.) Slinker does not explain how these constitutional

¹The two exceptions—that is, the two SPRL provisions that apply to OUS—are ORS 240.167 (the costs of operating the Employment Relations Board are divided among divisions of state government) and ORS 240.185 (limits the total number of state employees to 1.5 percent of the state’s population). ORS 351.086(2).

²Article I, Section 10 of the Oregon Constitution states: “No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.”

³Article I, Section 20 of the Oregon Constitution states: “No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.”

⁴Article I, Section 33 of the Oregon Constitution states: “This enumeration of rights, and privileges shall not be construed to impair or deny others retained by the people.”

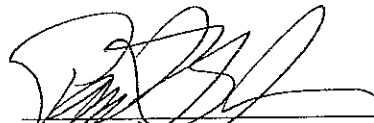
provisions support his position. *See Priest v. Pearce*, 314 Or 411, 415-16, 840 P2d 65 (1992) (describing the method for analyzing provisions of the Oregon Constitution). We conclude that none of the provisions confer jurisdiction on this Board to hear Slinker's appeal.

The Employment Relations Board lacks jurisdiction to hear Slinker's appeal. We must therefore dismiss it.

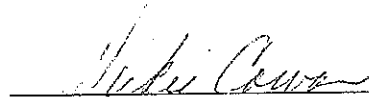
ORDER

The appeal is dismissed.

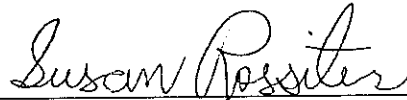
DATED this 12TH day of December 2007.



Paul B. Gamson, Chair



Vickie Cowan, Board Member



Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.

