

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-4-06

(MANAGEMENT SERVICE APPEAL)

JEAN MORIARTY, )

Appellant, )

v. )

STATE OF OREGON, )  
DEPARTMENT OF HUMAN SERVICES, )

Respondent. )  
\_\_\_\_\_ )

DISMISSAL ORDER

Jean Moriarty, \_\_\_\_\_, *pro se*.

Francis J. Connell, III, Attorney-in-Charge, Labor and Employment Section, Department of Justice, 1162 Court Street N.E., Salem, Oregon 97301-4096, represented Respondent.

On April 6, 2006, Moriarty filed this appeal of a written reprimand issued by the State of Oregon, Department of Human Services (Department) on March 6, 2006. Moriarty, a Department nurse manager at a group home, and a management service employee, alleged that the reprimand was arbitrary and capricious, was based on factual inaccuracies and false assumptions, did not apply principles of progressive discipline, and was unreasonably harsh.

On April 21, 2006, Administrative Law Judge (ALJ) B. Carlton Grew wrote Moriarty to offer dates for hearing. The ALJ also stated:

“The postmark date of the appeal letter does not appear in the file. The receipt date is April 6, 2006, 31 days after

March 6. The appeal letter states that it was sent by certified mail. Ms. Moriarty, please send me a copy of the certified mail receipt so that I may rule upon the timeliness of the appeal.”

Moriarty did not respond, and on May 15, 2006, the ALJ wrote her again to ask about the hearing dates and mail receipt. He warned Moriarty that if she did not respond by May 26, 2006, he would recommend that this Board dismiss the appeal for untimeliness and lack of prosecution. Moriarty did not respond.

Moriarty failed to respond to the ALJ's questions. Her appeal letter was received on April 6, 2006, 31 days after the discipline complained of, and there was no evidence of its mailing date. The appeal was due not later than 30 days after the discipline ORS 240.560(1). The appeal will be dismissed for failure to prosecute and for untimeliness. ORS 240.570(4) and 240.560(1); *McMinnville Firefighters Association v City of McMinnville*, Case No UP-4-94, 15 PECBR 83 (1994)

ORDER

The appeal is dismissed

DATED this 4<sup>th</sup> day of October 2006.

  
Donna Sandoval Bennett, Chair

  
Paul B. Gamson, Board Member

  
James W. Kasameyer, Board Member

This Order may be appealed pursuant to ORS 183.482.