

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-12-06

(SPRL APPEAL)

SIDNEY M. MCKINNEY,)

Appellant,)

v.)

STATE OF OREGON,)
DEPARTMENT OF TRANSPORTATION,)

Respondent.)

DISMISSAL ORDER

Sidney M. McKinney, 

pro se.

Tessa Sugahara, Assistant Attorney General, Labor and Employment Section, Department of Justice, 1162 Court Street N.E., Salem, Oregon 97301-4096, represented Respondent.

Appellant Sidney McKinney is employed by the State of Oregon, Department of Transportation (ODOT). On October 3, 2006, ODOT issued Appellant a written reprimand. On October 13, 2006, Appellant timely appealed this reprimand. In his appeal, Appellant states: “[M]y appeal is that you act as an advocate on my behalf to pursue help, rather than to contest the fundamental basis for the reprimand.”

The case was assigned to Administrative Law Judge (ALJ) Vickie Cowan for processing. By letter dated November 20, 2006, ALJ Cowan informed Appellant that the Employment Relations Board (ERB) is a quasi-judicial agency whose function is to adjudicate disputes and issue final orders. This Board does not act as an advocate for appellants.

The ALJ warned Appellant that she would recommend dismissal of his appeal unless Appellant, by December 4, provided facts which would tend to show that ODOT's actions were arbitrary, in violation of law, or taken for political reasons. Appellant did not respond.

ORS 240.086 provides, in relevant part:

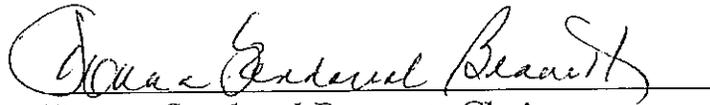
“* * * The duties of the Employment Relations Board shall be to:

“(1) 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.”

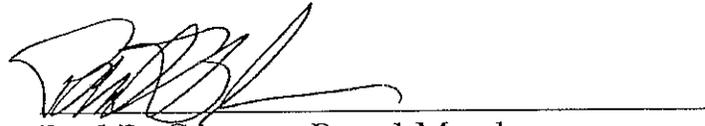
Appellant's appeal does not include the requisite allegations and therefore does not state a claim upon which this Board may grant relief.

The appeal is dismissed for failure to state a claim and for lack of prosecution. *Young v. Office of Educational Policy and Planning*, Case No MA-22-94 (September 1994).

DATED this 22nd day of December 2006.



Donna Sandoval Bennett, Chair



Paul B. Gamson, Board Member

*James W. Kasameyer, Board Member

*Member Kasameyer concurs but was absent on the date of signing.

This Order may be appealed pursuant to ORS 183.482.

