

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-10-12

(LIMITED DURATION EMPLOYEE TERMINATION)

ROBIN COOK,)	
Appellant,)	
)	
v.)	DISMISSAL ORDER
)	
STATE OF OREGON, OREGON)	
HOUSING AND COMMUNITY)	
SERVICES,)	
Respondent.)	
_____)	

Richard Rizk, Attorney at Law, Portland, Oregon, represented Appellant.

Sylvia Van Dyke, Senior Assistant Attorney General, Labor and Employment Section, Department of Justice, Salem, Oregon, represented Respondent.

On April 10, 2012, Appellant Robin Cook filed this appeal under the State Personnel Relations Law (SPRL) challenging her removal as a Program Analyst 1 in the Homeownership Stabilization Initiative Division (OHSI) of Oregon Housing and Community Services (OHCS). Cook alleges she was removed for whistleblowing about lending practices at OHSI.

On April 13 and April 19, 2012, the Administrative Law Judge wrote to Cook's counsel requesting clarification of her employment status and raising jurisdictional issues. On May 15, 2012, OHCS moved to dismiss the appeal on the grounds that ORS 240.086(1) does not grant this Board jurisdiction over the appeal. Cook's counsel did not respond to the motion.

For purposes of this Order, we assume the well-pled facts in the appeal are true. *Service Employees International Union Local 503 v. State of Oregon, Judicial Department*, Case No. UP-6-04, 20 PECBR 677, 678 (2004). We may also rely on undisputed facts we discover during our investigation of the appeal. *Upton v. Oregon Education Association/UniServ*, Case No. UP-58-06, 21 PECBR 867, 868 (2007); ORS 243.676(1)(b).

Background

On December 19, 2011, Cook signed a Limited Duration Agreement (Agreement) with the OHCS that appointed her to a Program Analyst 1 position. The Agreement states that her appointment was for a regular, classified position represented by the Service Employees International Union (SEIU). The Agreement also provides that the appointment expires on June 30, 2013, but that either party may terminate the appointment at any time for any reason. On March 12, 2012, she was terminated in a letter signed by OHSI Administrator Michael Auman.

Discussion

ORS 240.086(1) provides that this Board shall

“[r]eview 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.”

The Agreement that Cook signed states that she was hired into a represented position in an SEIU bargaining unit. As a result, this Board lacks jurisdiction to hear this appeal under ORS 240.086(1) and we will dismiss it.

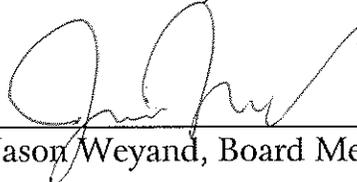
ORDER

The appeal is dismissed.

DATED this 12 day of July, 2012.



Susan Rossiter, Chair



Jason Weyand, Board Member



Kathryn A. Logan, Board Member

This Order may be appealed pursuant to ORS 183.482.