

ORDER OF THE STATE PERSONNEL BOARD

LYNNE C. POMPETTI,

Complainant,

v.

DEPARTMENT OF CORRECTIONS, CLINICAL OPERATIONS,

Respondent.

The State Personnel Board (the "Board") met in public session on Tuesday, March 20, 2001. During this public session, the Board considered the record on appeal, including the (1) Order of Dismissal for Lack of Jurisdiction; (2) Opening Brief of Appellant/Complainant; (3) Answer Brief of the Department of Corrections; and (4) Complainant's Reply Brief. Being advised, it is found:

1. On October 3, 2000, the administrative law judge issued an order dismissing Complainant's case as a result of the State Personnel Board not having jurisdiction over the matter.
2. Complainant argues, in part, that the Board has jurisdiction over this matter because the State Employee Protection Act is intended to be a comprehensive remedial statutory scheme, making no distinction between classified and non-classified employees. In her Reply Brief, Complainant argues attorney fees and costs should not be awarded.
3. Respondent argues, in part, that Complainant's employment relationship is not governed by the rules and procedures of the state personnel system and that Respondent should be awarded attorney fees and costs.

The following order is entered:

The Board adopts the findings of the Administrative Law Judge and affirms the Order of Dismissal for Lack of Jurisdiction. This order represents the affirmative vote of the following Board members: Linda Siderius, John Zakhem, and Joy Hoffman.

Dated this _____ day of
March, 2001

Joy Hoffman
Board Chair

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11) C.R.S. (2000), as provided in Section 24-50-125.4(3), C.R.S. (2000).

In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.

CERTIFICATE OF MAILING

This is to certify that on this _____ day of March, 2001, I placed true copies of the foregoing ORDER OF THE STATE PERSONNEL BOARD and Appeal Rights in the United States mail, postage prepaid, addressed as follows:

William S. Finger, Esquire
Frank & Finger, P.C.
P O Box 1477
Evergreen, CO 80437-1477

and in the interagency mail, addressed to:

Coleman Connolly
Assistant Attorney General
Employment Section
Department of Law
1525 Sherman Street, 5th Floor
Denver CO 80203

