

# State of New Hampshire



## PERSONNEL APPEALS BOARD

25 Capitol Street  
Concord, New Hampshire 03301  
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### APPEAL OF IRIS EMERSON

Docket #00-P-8

Department of Transportation

July 30, 2001

The New Hampshire Personnel Appeals Board (Wood, Barry and Bonafide) met on Wednesday, December 6, 2000, under the authority of RSA 21-I:58, to hear the appeal of Iris Emerson, a former employee of the Department of Transportation (DOT). Ms. Emerson appeared at the hearing *pro se*. Assistant Attorney General Kathryn Bradley appeared on behalf of the Department of Transportation.

On May 11, 2000, while she was still employed by the DOT, Ms. Emerson filed an appeal of her non-selection to the position of Senior Radio Dispatcher, Position #20446 at the DOT District One Office. The Board replied to Ms. Emerson by letter dated May 25, 2000, advising her that in order for her appeal to be properly filed, she needed to certify that a copy of the appeal and all documents associated with the appeal had been provided to the agency from which the appeal arose. By letter dated May 30, 2000, Ms. Emerson forwarded her appeal to Frances Buczynski, Human Resources Administrator at the DOT.

On June 23, 2000, Ms. Emerson again wrote to the Board, informing them that as a result of allegations outlined in her letter of appeal, the DOT in conjunction with the Attorney General's Office had initiated an investigation, and that the results of that investigation might affect the

decision from which the appeal arose. She advised the Board that she would notify them when the investigation had been completed.

On November 20, 2000, having received no further requests to continue or any information with respect to the status of the investigation, the Board notified the parties that it had scheduled a hearing on the merits of the appeal on December 6, 2000. Assistant Attorney General Bradley immediately filed an appearance on behalf of the DOT, and a Motion to Dismiss, arguing that Ms. Emerson had resigned from her position and therefore would no longer be entitled to seek a remedy from the Board under the provisions of RSA 21-I:58.

On December 6, 2000, the parties offered their arguments on the pending Motion to Dismiss. Ms. Emerson argued that the Board should hear her appeal, as she had waited for nearly eight months for the DOT and Attorney General's Office to complete its investigation and advise her of the results, and resigned only when the stress of the investigation and the resulting relationship with her immediate supervisor made it too uncomfortable for her to remain in her position at District One. Ms. Emerson also asserted that her resignation was not entirely voluntary, alleging that while she was on an approved leave, her District Engineer had asked for her resignation.

Ms. Bradley argued that the issue of Ms. Emerson's resignation was not a matter before the Board, and one that could not be considered in judging the merits of the State's Motion to Dismiss. She also indicated that while she was aware of an investigation associated with the allegations raised by Ms. Emerson about her non-selection for promotion, she was not familiar with the facts of the case, nor was she familiar with the documents to which Ms. Emerson had referred in her appeal. She said that while the Board should grant the Motion to Dismiss, she would agree to meet with Ms. Emerson and discuss the allegations she had raised, as well as the events which followed the non-selection for promotion, the investigation, and ultimately Ms. Emerson's resignation from her employment with the Department.

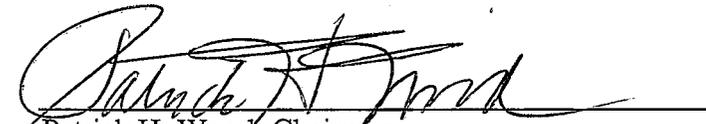
Having heard the parties' arguments, the Board agreed to hold the motion and the appeal itself in abeyance pending discussions between Ms. Emerson and Ms. Bradley. The parties agreed to

provide a status report by January 17,2001, at which time the Board would determine the status of the appeal and decide whether or not a ruling on the Motion will be necessary.

On April 2,2001, Ms. Bradley wrote to the Board advising them that she had transmitted the reports to Ms. Emerson on January 29, 2001, along with an invitation to meet with Ms. Bradley to discuss the reports. She indicated that she never heard from the appellant. Ms. Bradley asked the Board either to schedule a hearing on the Department's Motion to Dismiss or rule on the motion based on the pleadings filed on November 30,2000.

The Board voted to DISMISS the appeal.

FOR THE PERSONNEL APPEALS BOARD



Patrick H. Wood, Chairman

cc: Thomas F. Manning, Director of Personnel, 25 Capitol Street, Concord, NH 03301  
Ms. Iris E. Emerson, 10 West Street, Groveton, NH 03582  
Transportation Bureau, Department of Justice, 33 Capitol Street, Concord, NH 03301