

State of New Hampshire



PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

Kara-Lee Bean - Docket # 2011-O-001

Department of Justice

September 7, 2011

On March 9, 2011, the New Hampshire Personnel Appeals Board received the appeal of Kara-Lee Bean, a Legal Assistant at the Department of Justice. Ms. Bean, whose appeal was filed *pro se*, was appealing a February 22, 2011, decision of the Division of Personnel regarding the correct interpretation of RSA 490:28, as it applied to leave accruals and longevity payments when employees transfer from the judicial branch to the executive branch of State government.

By letter dated May 23, 2011, Attorney Beth Catenza submitted on the State's behalf a Motion to Dismiss for Lack of Jurisdiction, arguing that the appeal did not relate to the application of a personnel rule, but to the interpretation of a statute. By letter dated June, 2, 2011, Ms. Bean informed the Board that she objected to that Motion.

The Board had scheduled an August 24, 2011, prehearing conference to hear oral argument on the State's Motion to Dismiss and the Appellant's Objection to that Motion. However, on July 20, 2011, the Board received the State's Assented-to Motion to Continue. The Board granted that request and advised the parties that the prehearing conference would be rescheduled as time permitted.

In preparation for rescheduling, however, and upon further review of the pleadings, the Board concluded that Ms. Bean's appeal is limited to a dispute over the correct interpretation of RSA 490:28. As such, her appeal is a matter outside the Board's subject matter jurisdiction as defined by RSA 21-I:46.

RSA 21-I:46, I, provides that, "The personnel appeals board shall hear and decide appeals as provided by RSA 21-I:57 and 21-I:58..." Ms. Bean's appeal is neither a classification decision as described by RSA 21-I:57, nor is it a decision arising out of an application of rules adopted by the Director of Personnel subject to appeal under the provisions of RSA 21-I:58. As such, the Board found that it lacks subject matter jurisdiction to hear or decide Ms.

Bean's appeal. For that reason, as set forth in the State's May 23, 2011, Motion to Dismiss for Lack of Jurisdiction, the Board voted unanimously to DISMISS the Appeal.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD


Patrick Wood, Chair


Philip Bonafide, Commissioner


Robert Johnson, Commissioner

cc: Kara-Lee Bean, NH Department of Justice, 33 Capitol Street, Concord, NH 03301
Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
Attorney Beth Catenza, Sulloway and Hollis, 9 Capitol St., PO Sob 1256, Concord, NH 03302