

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WASHINGTON REGIONAL OFFICE**

IKIA BUTLER,

Appellant,

DOCKET NUMBER
DC-0752-23-0453-I-1

v.

UNITED STATES POSTAL SERVICE,
Agency.

DATE: June 28, 2023

Ikia Butler, Charlotte, North Carolina, pro se.

Brandon Truman, St. Louis, Missouri, for the agency.

BEFORE
Brian Bohlen
Administrative Judge

INITIAL DECISION

On April 30, 2023, the appellant, Ms. Ikia Butler, filed the above-captioned appeal alleging that the U.S. Postal Service failed to credit her with appropriate seniority in a new position after she resigned from a prior agency position for personal reasons months earlier. For the reasons explained below, the appeal is DISMISSED for lack of jurisdiction.

JURISDICTION

Background and Issues Presented

Ms. Butler explained within her initial appeal narrative that she served as a full-time letter carrier position with the agency for about twelve years and three months. *See* Initial Appeal File (IAF), Tab 1 (Initial Appeal), p. 5. She worked

for more than twelve years of her total Postal Service career in Philadelphia, Pennsylvania, and then bid for and received a reassignment to Yorkmont Station in Charlotte, North Carolina to escape her abusive ex-spouse. Unfortunately, she found it necessary to resign from the Yorkmont position within a few months in order to care for her son who had been diagnosed with a mental illness, and to continue evading her abusive ex-husband. *Id.* Ms. Butler provided a Postal Service (PS) Form 50 indicating that her resignation from Yorkmont was effective September 21, 2020. *See* IAF, Tab 6 (Appellant’s Motion in Opposition), p. 9.

On September 15, 2021, Ms. Butler applied for a new vacant Postal Service position in Charlotte, North Carolina, and was hired for a new entry-level City Carrier Assistant (CCA) position. She completed new-employee orientation and several months of CCA basic skills training before quitting the job because “Concord station humiliated and treated me as if I was a novice.” She recounted that she questioned her lack of seniority in the CCA position both through agency human resources channels and with the regional union representative, both of whom told her that she was not eligible for her former career status and seniority during the first two years after she was rehired. Ms. Butler further alleges that the agency failed to pay her for 205.50 hours of work in the CCA position at Concord Station.

On May 22, 2023, the agency filed a Motion to Dismiss the appeal for lack of jurisdiction. The agency’s Motion explained the limited nature of the Board’s jurisdiction as well as the appellant’s burden of establishing jurisdiction over her appeal. *See* IAF, Tab 5 (Agency Motion to Dismiss), pp. 4-5. The agency’s Motion then argued that the appellant’s concerns about being hired into an entry-level position without her former seniority and the agency’s alleged failure to pay her for all the hours she worked did not constitute an appealable adverse action within the Board’s jurisdiction under 5 U.S.C. § 7512 and 5 U.S.C. § 7513. *See* IAF, Tab 5, p. 5.

The agency's Motion further averred that even if an appealable adverse action occurred, the appeal would need to be dismissed because the appellant was not preference eligible and had not encumbered a position with appeal rights to the Board. Specifically, the agency explained that a Postal Service employee can only appeal an adverse action to the Board if she either: (1) satisfies 5 U.S.C. § 7511(a)(1) by being a preference eligible employee (or former employee) who completed at least one year of current continuous service in the same or a similar position; or (2) satisfies 39 U.S.C. § 1005(a)(4)(ii) by being a management or supervisory employee (or former employee), or engaged in personnel work in other than a purely non-confidential clerical capacity who completed at least one year of current continuous service in the same or a similar position. The agency argued that the appellant satisfied neither of the above criteria because she denied being preference eligible within her initial appeal, and her position as a City Carrier was facially not a managerial, supervisory, or personnel advisory job.

The appellant responded to the agency's Motion with a submission entitled "Motion in Opposition." However, the appellant's submission did not contain any narrative arguments or pleading, and was instead composed entirely of several records documenting her reassignment from Philadelphia to Charlotte; her resignation from that position; and her subsequent rehiring and training as a CCA. *See* IAF, Tab 6 (Motion in Opposition), pp. 1-11. I reviewed those documents carefully, but found nothing within them that addresses or refutes the agency's jurisdictional arguments.

Analysis and Findings

As the agency correctly stated in its Motion to Dismiss, the Board's jurisdiction is limited to those issues specifically granted by law or regulation. The most common source of the Board's jurisdiction stems from a list of adverse actions within 5 U.S.C. § 7512 including removals, suspensions longer than fourteen days, reductions in grade, reductions in pay, and furloughs of thirty days

or less. While the appellant has clear concerns about being hired back by the agency without her prior seniority following her earlier resignation for personal reasons, she did not allege – and no evidence in the record suggests – that the agency removed her, suspended her, reduced her grade or pay while she served in any position, or furloughed her. Thus, I find that no appealable adverse action has been alleged or demonstrated.

I also considered whether this case might involve an agency failure or refusal to restore the appellant back to work after a compensable workplace injury, in violation of U.S.C. § 8151 and promulgating regulations at 5 C.F.R. § 353. Federal employees who suffer an on-the-job compensable injury enjoy certain rights to be restored to employment. To be entitled to restoration, an employee must have been “separated or furloughed from an appointment without time limitation ... as a result of a compensable injury.” 5 C.F.R. § 353.103(b). A “compensable injury” is a medical condition accepted by the Office of Workers’ Compensation Programs (OWCP) to be job-related and for which medical or monetary benefits are payable from the Employees’ Compensation Fund. *Tat v. U.S. Postal Service*, 109 M.S.P.R. 562, ¶ 9 (2008). While the appellant checked a box within her initial appeal indicating that she was complaining about a denial of restoration, she presented no argument or evidence suggesting that she suffered any compensable workplace injury. Instead, she repeatedly indicates that she resigned from her full-time career position to care for her son and to evade her abusive ex-husband. Thus, I find that this case does not present a colorable “denial of restoration” claim within the Board’s subject matter jurisdiction.

The Board’s jurisdiction is also limited to certain types of individuals who have been granted Board appeal rights. While most non-probationary employees within Federal agencies have Board appeal rights for adverse actions, the jurisdictional situation is decidedly more restrictive for Postal Service employees. As the agency representative correctly explained, Postal Service employees can only appeal an adverse action to the Board if they are either preference eligible.

or were serving in a managerial, supervisory, or confidential personnel advisory position, none of which was alleged by the appellant in this case. Thus, even if the appellant had non-frivolously alleged that the agency took an adverse action within the Board's jurisdiction, her appeal would still have to be dismissed on this independent basis.

Findings and Conclusion

As explained above, I have considered every avenue through which the Board could assert jurisdiction over this appeal, and found none that apply. The appeal must therefore be dismissed.

DECISION

The appeal is DISMISSED.

FOR THE BOARD:

/S/

Brian Bohlen
Administrative Judge

NOTICE TO APPELLANT

This initial decision will become final on **August 2, 2023**, unless a petition for review is filed by that date. This is an important date because it is usually the last day on which you can file a petition for review with the Board. However, if you prove that you received this initial decision more than 5 days after the date of issuance, you may file a petition for review within 30 days after the date you actually receive the initial decision. If you are represented, the 30-day period begins to run upon either your receipt of the initial decision or its receipt by your representative, whichever comes first. You must establish the date on which you or your representative received it. The date on which the initial decision becomes final also controls when you can file a petition for review with one of the authorities discussed in the "Notice of Appeal Rights" section, below. The paragraphs that follow tell you how and when to file with the Board or one of

those authorities. These instructions are important because if you wish to file a petition, you must file it within the proper time period.

BOARD REVIEW

You may request Board review of this initial decision by filing a petition for review.

If the other party has already filed a timely petition for review, you may file a cross petition for review. Your petition or cross petition for review must state your objections to the initial decision, supported by references to applicable laws, regulations, and the record. You must file it with:

The Clerk of the Board
Merit Systems Protection Board
1615 M Street, NW.
Washington, DC 20419

A petition or cross petition for review may be filed by mail, facsimile (fax), personal or commercial delivery, or electronic filing. A petition submitted by electronic filing must comply with the requirements of 5 C.F.R. § 1201.14, and may only be accomplished at the Board's e-Appeal website (<https://e-appeal.mspb.gov>).

Criteria for Granting a Petition or Cross Petition for Review

Pursuant to 5 C.F.R. § 1201.115, the Board normally will consider only issues raised in a timely filed petition or cross petition for review. Situations in which the Board may grant a petition or cross petition for review include, but are not limited to, a showing that:

(a) The initial decision contains erroneous findings of material fact. (1) Any alleged factual error must be material, meaning of sufficient weight to warrant an outcome different from that of the initial decision. (2) A petitioner who alleges that the judge made erroneous findings of material fact must explain why the challenged factual determination is incorrect and identify specific

evidence in the record that demonstrates the error. In reviewing a claim of an erroneous finding of fact, the Board will give deference to an administrative judge's credibility determinations when they are based, explicitly or implicitly, on the observation of the demeanor of witnesses testifying at a hearing.

(b) The initial decision is based on an erroneous interpretation of statute or regulation or the erroneous application of the law to the facts of the case. The petitioner must explain how the error affected the outcome of the case.

(c) The judge's rulings during either the course of the appeal or the initial decision were not consistent with required procedures or involved an abuse of discretion, and the resulting error affected the outcome of the case.

(d) New and material evidence or legal argument is available that, despite the petitioner's due diligence, was not available when the record closed. To constitute new evidence, the information contained in the documents, not just the documents themselves, must have been unavailable despite due diligence when the record closed.

As stated in 5 C.F.R. § 1201.114(h), a petition for review, a cross petition for review, or a response to a petition for review, whether computer generated, typed, or handwritten, is limited to 30 pages or 7500 words, whichever is less. A reply to a response to a petition for review is limited to 15 pages or 3750 words, whichever is less. Computer generated and typed pleadings must use no less than 12 point typeface and 1-inch margins and must be double spaced and only use one side of a page. The length limitation is exclusive of any table of contents, table of authorities, attachments, and certificate of service. A request for leave to file a pleading that exceeds the limitations prescribed in this paragraph must be received by the Clerk of the Board at least 3 days before the filing deadline. Such requests must give the reasons for a waiver as well as the desired length of the pleading and are granted only in exceptional circumstances. The page and word limits set forth above are maximum limits. Parties are not expected or required to

submit pleadings of the maximum length. Typically, a well-written petition for review is between 5 and 10 pages long.

If you file a petition or cross petition for review, the Board will obtain the record in your case from the administrative judge and you should not submit anything to the Board that is already part of the record. A petition for review must be filed with the Clerk of the Board no later than the date this initial decision becomes final, or if this initial decision is received by you or your representative more than 5 days after the date of issuance, 30 days after the date you or your representative actually received the initial decision, whichever was first. If you claim that you and your representative both received this decision more than 5 days after its issuance, you have the burden to prove to the Board the earlier date of receipt. You must also show that any delay in receiving the initial decision was not due to the deliberate evasion of receipt. You may meet your burden by filing evidence and argument, sworn or under penalty of perjury (*see* 5 C.F.R. Part 1201, Appendix 4) to support your claim. The date of filing by mail is determined by the postmark date. The date of filing by fax or by electronic filing is the date of submission. The date of filing by personal delivery is the date on which the Board receives the document. The date of filing by commercial delivery is the date the document was delivered to the commercial delivery service. Your petition may be rejected and returned to you if you fail to provide a statement of how you served your petition on the other party. *See* 5 C.F.R. § 1201.4(j). If the petition is filed electronically, the online process itself will serve the petition on other e-filers. *See* 5 C.F.R. § 1201.14(j)(1).

A cross petition for review must be filed within 25 days after the date of service of the petition for review.

NOTICE TO AGENCY/INTERVENOR

The agency or intervenor may file a petition for review of this initial decision in accordance with the Board's regulations.

NOTICE OF APPEAL RIGHTS

You may obtain review of this initial decision only after it becomes final, as explained in the “Notice to Appellant” section above. 5 U.S.C. § 7703(a)(1). By statute, the nature of your claims determines the time limit for seeking such review and the appropriate forum with which to file. 5 U.S.C. § 7703(b). Although we offer the following summary of available appeal rights, the Merit Systems Protection Board does not provide legal advice on which option is most appropriate for your situation and the rights described below do not represent a statement of how courts will rule regarding which cases fall within their jurisdiction. If you wish to seek review of this decision when it becomes final, you should immediately review the law applicable to your claims and carefully follow all filing time limits and requirements. Failure to file within the applicable time limit may result in the dismissal of your case by your chosen forum.

Please read carefully each of the three main possible choices of review below to decide which one applies to your particular case. If you have questions about whether a particular forum is the appropriate one to review your case, you should contact that forum for more information.

(1) Judicial review in general. As a general rule, an appellant seeking judicial review of a final Board order must file a petition for review with the U.S. Court of Appeals for the Federal Circuit, which must be received by the court within **60 calendar days** of the date this decision becomes final. 5 U.S.C. § 7703(b)(1)(A).

If you submit a petition for review to the U.S. Court of Appeals for the Federal Circuit, you must submit your petition to the court at the following address:

U.S. Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, D.C. 20439

Additional information about the U.S. Court of Appeals for the Federal Circuit is available at the court's website, www.cafc.uscourts.gov. Of particular relevance is the court's "Guide for Pro Se Petitioners and Appellants," which is contained within the court's Rules of Practice, and Forms 5, 6, 10, and 11.

If you are interested in securing pro bono representation for an appeal to the U.S. Court of Appeals for the Federal Circuit, you may visit our website at <http://www.mspb.gov/probono> for information regarding pro bono representation for Merit Systems Protection Board appellants before the Federal Circuit. The Board neither endorses the services provided by any attorney nor warrants that any attorney will accept representation in a given case.

(2) Judicial or EEOC review of cases involving a claim of discrimination. This option applies to you only if you have claimed that you were affected by an action that is appealable to the Board and that such action was based, in whole or in part, on unlawful discrimination. If so, you may obtain judicial review of this decision—including a disposition of your discrimination claims—by filing a civil action with an appropriate U.S. district court (*not* the U.S. Court of Appeals for the Federal Circuit), within **30 calendar days after this decision becomes final** under the rules set out in the Notice to Appellant section, above. 5 U.S.C. § 7703(b)(2); *see Perry v. Merit Systems Protection Board*, 582 U.S. 420 (2017). If the action involves a claim of discrimination based on race, color, religion, sex, national origin, or a disabling condition, you may be entitled to representation by a court-appointed lawyer and to waiver of any requirement of prepayment of fees, costs, or other security. *See* 42 U.S.C. § 2000e-5(f) and 29 U.S.C. § 794a.

Contact information for U.S. district courts can be found at their respective websites, which can be accessed through the link below:

http://www.uscourts.gov/Court_Locator/CourtWebsites.aspx.

Alternatively, you may request review by the Equal Employment Opportunity Commission (EEOC) of your discrimination claims only, excluding all other issues. 5 U.S.C. § 7702(b)(1). You must file any such request with the EEOC's Office of Federal Operations within **30 calendar days after this decision becomes final** as explained above. 5 U.S.C. § 7702(b)(1).

If you submit a request for review to the EEOC by regular U.S. mail, the address of the EEOC is:

Office of Federal Operations
Equal Employment Opportunity Commission
P.O. Box 77960
Washington, D.C. 20013

If you submit a request for review to the EEOC via commercial delivery or by a method requiring a signature, it must be addressed to:

Office of Federal Operations
Equal Employment Opportunity Commission
131 M Street, N.E.
Suite 5SW12G
Washington, D.C. 20507

(3) Judicial review pursuant to the Whistleblower Protection Enhancement Act of 2012. This option applies to you only if you have raised claims of reprisal for whistleblowing disclosures under 5 U.S.C. § 2302(b)(8) or other protected activities listed in 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D). If so, and your judicial petition for review “raises no challenge to the Board's disposition of allegations of a prohibited personnel practice described in section 2302(b) other than practices described in section 2302(b)(8) or 2302(b)(9)(A)(i), (B), (C), or (D),” then you may file a petition for judicial review with the U.S. Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction. The court of appeals must receive your petition for review within

60 days of the date this decision becomes final under the rules set out in the Notice to Appellant section, above. 5 U.S.C. § 7703(b)(1)(B).

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**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

IKIA BUTLER,

Appellant,

DOCKET NUMBER
DC-0752-23-0453-I-1

v.

UNITED STATES POSTAL SERVICE,
Agency.

DATE: September 23, 2024

ORDER

On August 26, 2024, the appellant requested to withdraw her petition for review, and, on August 29 and September 6, 2024, the Board ordered the appellant to file a pleading confirming her intent and ordered the agency to file any objections to withdrawal. Having received confirmation of the appellant's intent to withdraw and no objection from the agency, the appellant's request to withdraw her petition for review is GRANTED.

This is the final order of the Board concerning the withdrawal of the appellant's petition for review. The initial decision of the administrative judge is the Board's final decision in this case. The date of this final order should be used for purposes of the appeal rights set forth below.

NOTICE OF APPEAL RIGHTS¹

You may obtain review of the final decision. 5 U.S.C. § 7703(a)(1). By statute, the nature of your claims determines the time limit for seeking such review and the appropriate forum with which to file. 5 U.S.C. § 7703(b). Although we offer the following summary of available appeal rights, the Merit Systems Protection Board does not provide legal advice on which option is most

¹ Since the issuance of the initial decision in this matter, the Board may have updated the notice of review rights included in final decisions. As indicated in the notice, the Board cannot advise which option is most appropriate in any matter.

appropriate for your situation and the rights described below do not represent a statement of how courts will rule regarding which cases fall within their jurisdiction. If you wish to seek review of the final decision, you should immediately review the law applicable to your claims and carefully follow all filing time limits and requirements. Failure to file within the applicable time limit may result in the dismissal of your case by your chosen forum.

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Contact information for U.S. district courts can be found at their respective websites, which can be accessed through the link below:

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Alternatively, you may request review by the Equal Employment Opportunity Commission (EEOC) of your discrimination claims only, excluding all other issues. 5 U.S.C. § 7702(b)(1). You must file any such request with the EEOC's Office of Federal Operations within **30 calendar days after you receive** this order. 5 U.S.C. § 7702(b)(1). If you have a representative in this case, and your representative receives this order before you do, then you must file with the

EEOC no later than **30 calendar days** after your representative receives this order.

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131 M Street, N.E.
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² The original statutory provision that provided for judicial review of certain whistleblower claims by any court of appeals of competent jurisdiction expired on December 27, 2017. The All Circuit Review Act, signed into law by the President on July 7, 2018, permanently allows appellants to file petitions for judicial review of MSPB decisions in certain whistleblower reprisal cases with the U.S. Court of Appeals for the Federal Circuit or any other circuit court of appeals of competent jurisdiction. The All Circuit Review Act is retroactive to November 26, 2017. Pub. L. No. 115-195, 132 Stat. 1510.

review within **60 days** of the date of issuance of this order. 5 U.S.C. § 7703(b)(1) (B).

If you submit a petition for judicial review to the U.S. Court of Appeals for the Federal Circuit, you must submit your petition to the court at the following address:

U.S. Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, D.C. 20439

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http://www.uscourts.gov/Court_Locator/CourtWebsites.aspx.

Gina K. Grippando

FOR THE BOARD:

Gina K. Grippando
Clerk of the Board

Washington, D.C.

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

IKIA BUTLER,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

UNITED STATES POSTAL SERVICE,
Intervenor

2025-1204

Petition for review of the Merit Systems Protection Board in No. DC-0752-23-0453-I-1.

Decided: October 20, 2025

IKIA BUTLER, Charlotte, NC, pro se.

DEANNA SCHABACKER, Office of the General Counsel, United States Merit Systems Protection Board, Washington, DC, for respondent. Also represented by ALLISON JANE BOYLE, KATHERINE MICHELLE SMITH.

SEAN KELLY GRIFFIN, Commercial Litigation Branch,

Civil Division, United States Department of Justice, Washington, DC, for intervenor. Also represented by ELIZABETH MARIE HOSFORD, PATRICIA M. MCCARTHY, YAAKOV ROTH.

Before MOORE, *Chief Judge*, DYK and CUNNINGHAM,
Circuit Judges.

PER CURIAM.

Ikia Butler petitions for review of a decision from the Merit Systems Protection Board (Board) dismissing her appeal for lack of jurisdiction. We *affirm*.

BACKGROUND

After working for the United States Postal Service (USPS) as a full-time City Carrier for over twelve years in Philadelphia, Pennsylvania, Ms. Butler bid for and received a reassignment to Charlotte, North Carolina. Appx. 1–2.¹ A few months after starting in Charlotte, she resigned for personal reasons. Appx. 1. Approximately one year after resigning, she applied for and was hired as an entry-level USPS City Carrier Assistant (CCA) in Charlotte. Appx. 2; Appx. 26. She completed new-employee orientation and several months of training before resigning again. Appx. 2. While employed as a CCA, she alleges she sought reinstatement to her prior full-time City Carrier position, which was denied. Appx. 2; Appx. 31. Ms. Butler then appealed to the Board, alleging that USPS failed to credit her prior seniority. Appx. 1. The Board dismissed for lack of jurisdiction. Appx. 1–5. Ms. Butler petitions for review. We have jurisdiction under 5 U.S.C. § 7703(b)(1)(A) and 28 U.S.C. § 1295(a)(9).

¹ “Appx.” refers to the appendix attached to Respondent’s informal brief.

DISCUSSION

The scope of our review in an appeal from a decision of the Board is limited. Generally, we must affirm the decision unless we find it to be “(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) obtained without procedures required by law, rule, or regulation having been followed; or (3) unsupported by substantial evidence.” 5 U.S.C. § 7703(c). Whether the Board has jurisdiction is a question of law we review de novo. *Bryant v. Merit Sys. Prot. Bd.*, 878 F.3d 1320, 1325 (Fed. Cir. 2017). We review the Board’s fact findings underlying its jurisdictional analysis for substantial evidence. *Id.*

The Board determined Ms. Butler failed to demonstrate she was subject to an appealable adverse action or establish a basis for a claim based on denial of restoration to work following a compensable workplace injury. Appx. 3–4. As an independent basis for dismissal, the Board found Ms. Butler did not allege she fell within one of the limited categories of USPS employees with Board appeal rights. Appx. 4–5. Ms. Butler does not challenge any of these determinations on appeal.

Instead, Ms. Butler argues USPS’ refusal to reinstate her to her prior seniority was a “suitability action” within the Board’s jurisdiction. Petitioner’s Informal Br. 8–10 (citing 5 C.F.R. §§ 731.203, 1201.3(a)(9)). Because Ms. Butler did not raise this argument before the Board, it is waived. *Bosley v. Merit Sys. Prot. Bd.*, 162 F.3d 665, 668 (Fed. Cir. 1998). Even if not waived, Ms. Butler cannot cast USPS’ refusal to reinstate her to her previous position as a suitability action to fall within the Board’s jurisdiction. The Board has jurisdiction over suitability actions where an agency takes action against a competitive service or career Senior Executive Service employee resulting from certain negative suitability determinations including cancellation of eligibility, removal, cancellation of reinstatement eligibility, or debarment. 5 C.F.R. §§ 731.101,

.203; *Ricci v. Merit Sys. Prot. Bd.*, 953 F.3d 753, 757 (Fed. Cir. 2020). As a postal service employee, Ms. Butler is in the excepted service, not the competitive service or Senior Executive Service. See *Mouton-Miller v. Merit Sys. Prot. Bd.*, 985 F.3d 864, 867 (Fed. Cir. 2021) (“All positions in the Postal Service fall within the excepted service.”); 5 U.S.C. § 2103 (“[T]he ‘excepted service’ consists of those civil service positions which are not in the competitive service or the Senior Executive Service.”). As such, Ms. Butler cannot be subject to a suitability action under the Board’s jurisdiction. See 5 C.F.R. § 731.101(a).

Ms. Butler argues that USPS’ refusal to credit her prior seniority after she accepted the CCA position was a cancellation of her reinstatement eligibility, but no evidence shows she was eligible for reinstatement to her previous position or that such eligibility was cancelled. Petitioner’s Informal Br. 8–10. Ms. Butler also argues the USPS Employment and Placement Handbook (EL-312) gave her a right to reinstatement in her previous position. Petitioner’s Informal Br. 9 (citing EL-312, §§ 233.332(a), .333, .334(b)(1)(a)). The portions of EL-312 Ms. Butler relies on, however, do not require USPS to reinstate her to her previous seniority or give the Board jurisdiction to review USPS’ decision. Instead, EL-312 states “[t]he Postal Service *may* fill a career position by reinstatement,” but it does not require USPS to reinstate her or grant the Board jurisdiction to review USPS’ decision not to reinstate Ms. Butler to her prior seniority. See EL-312, § 233.331 (emphasis added).

CONCLUSION

We have considered Ms. Butler’s remaining arguments and find them unpersuasive. Accordingly, we *affirm*.

AFFIRMED

COSTS

No costs.