

**SAMPLE SAMPLE SAMPLE** STATE OF KANSAS

	)	
	) Appellant,	
	)	
vs.	)	Appeal No.
	)	
ECONOMIC AND EMPLOYMENT SERVICES	)	
DEPARTMENT FOR CHILDREN	)	
AND FAMILIES,	)	
STATE OF KANSAS,	)	
	) Respondent.	

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**MOTION TO DISMISS**

COMES NOW the Respondent, Economic and Employment Services Section, Department for Children and Families, State of Kansas, and requests the hearing officer to dismiss Appellant’s request for a fair hearing in this matter. Respondent states in support of its motion that K.S.A. 75-3306(i), as amended by L. 1989, Ch. 283, Sec. 21, provides that “the Department for Children and Families shall not be required to provide a hearing if: (1) the department. . . lacks jurisdiction of the subject matter. . . .” Further, subsection (h) provides that “the administrative hearings section shall not have jurisdiction to determine the facial validity of an agency rule and regulation.” The appellant is challenging the agency’s authority to: **Exercise an option contained in the contract. The controlling authority is the language of the agreement itself which provides either party may terminate the contract with 30 days notice. No reason need be given.**

Such action is based on \_\_\_\_\_

Therefore, Respondent requests the appeal be dismissed for lack of jurisdiction because such appeal challenges the agency’s authority to take this action.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

a true and correct copy of a Motion to Dismiss was served by depositing the same in the United States mail, first class postage prepaid; to:

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Name

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Address

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Signature