

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Lisa M. Buckner,

Appellant,

v.

Case No. 08-INV-06-0425

Montgomery County Board of Commissioners,

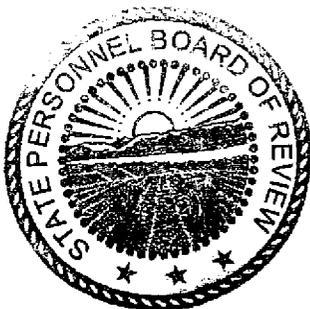
Appellee

ORDER

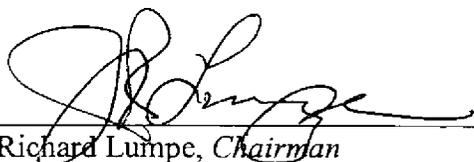
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned request for investigation.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the instant request for investigation be **DISMISSED**, pursuant to R.C. 124.56.



Lumpe - Aye
Booth - Aye
Sfalcin - Aye

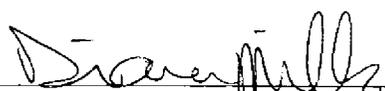


J. Richard Lumpe, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, December 31, 2008.



Clerk



**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Lisa M. Buckner,

Case No. 08-INV-06-0425

Appellant

v.

November 6, 2008

Montgomery County Board
of Commissioners,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's request for investigation, filed with this Board on June 27, 2008. Appellant alleged, in response to this Board's August 5, 2008, correspondence, that Appellee violated Ohio Administrative Code Sections 124-3-01 and 124-3-02, as well as Ohio Revised Code Section 124.385(A)(1) by placing her on paid administrative leave and by scheduling her to attend a medical and psychological evaluation. Appellee filed a Motion to Dismiss with this Board on August 26, 2008.

CONCLUSIONS OF LAW

Unlike a court of general jurisdiction, the State Personnel Board of Review has authority only where it has been explicitly conferred upon it by the Ohio General Assembly. This Board's investigatory jurisdiction is derived from R.C. 124.56, which provides that this Board shall conduct an investigation when it has reason to believe that:

. . . any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal, has abused such power by making an appointment, layoff, reduction, suspension, or removal of an employee under his or their jurisdiction in violation of [Chapter 124.] of the Revised Code

In order to invoke this Board's authority, Appellant must allege that Appellee has made an appointment, layoff, reduction, suspension, or removal in violation of R.C. Chapter 124. Where a request for investigation alleges none of the above-referenced triggering devices, the State Personnel Board of Review is without jurisdiction to proceed with an investigation. *State, ex rel. Carver v. Hull* (1994), 70 Ohio St.3d 570; *Okpal v. University of Toledo* (1982), PBR 82-INV-10-3019; *Reed v. Montgomery County Board of Mental Retardation* (1982), PBR 82-INV-09-2801; *Logsdon v. University of Cincinnati* (1982), PBR 82-INV-08-2690.

Appellant's request that this for an investigation of her being placed on paid administrative leave and scheduled to attend a medical and psychological evaluation is not one of the triggering devices found in R.C. 124.56. Accordingly, I find that this Board has no jurisdiction to proceed with an investigation of this matter.

Therefore, I respectfully **RECOMMEND** that Appellant's request for investigation be **DISMISSED** for lack of subject matter jurisdiction over Appellant's allegations.


Jeannette E. Gunn
Administrative Law Judge

JEG: