

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Sandra L. Fisher,

*Appellant.*

v.

Case No. 08-MIS-05-0116

Department of Rehabilitation and Correction,  
Madison Correctional Institution,

*Appellee.*

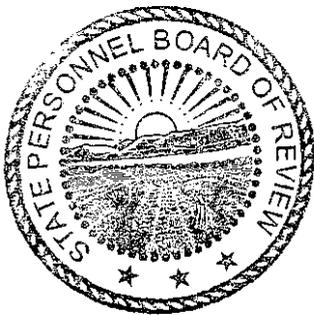
**ORDER**

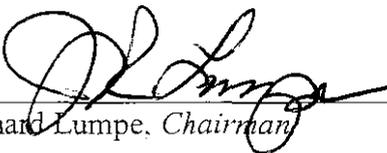
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 appeal be **DISMISSED** for lack of jurisdiction, pursuant to O.R.C. § 124.328 and O.A.C. § 123:1-41 *et seq.*

Lumpe - Aye  
Booth - Aye  
Sfalcin - Aye

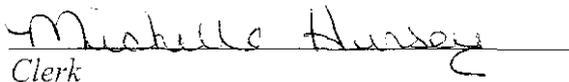


  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

**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 constitute ~~(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, August 19, 2008.

  
\_\_\_\_\_  
Michelle Hursey  
Clerk

**NOTE:** Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

8/19/08

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

Sandra L. Fisher,

Case No. 08-MIS-05-0116

*Appellant*

v.

May 23, 2008

Department of Rehabilitation & Correction,  
Madison Correctional Institution,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellant's filing of an appeal concerning the calculation of her retention points in relation to her potential displacement or layoff, or the abolishment of her position. Appellant did not indicate a separate intent to file an appeal of her possible displacement or layoff, or the possible abolishment of her appeal.

Pursuant to R.C. 124.328 and O.A.C. 123:1-41 *et seq.*, this Board's statutory authority to review the calculation of an employee's retention points is triggered by an employee's timely filing of an appeal with this Board from the employee's job abolishment and/or layoff, or the employee's displacement. Accordingly, because Appellant did not file an appeal of her displacement, layoff or abolishment, I find that this Board is without jurisdiction to consider the issue of her retention point calculation.

I note, parenthetically, that the materials attached to Appellant's appeal include a copy of a letter issued by Appellee as part of a preliminary process utilized to determine what layoffs might be necessary. Because the letter does not reference a definite action, but only the possibility of an action, it is insufficient to constitute a notice of an actual layoff, abolishment, or displacement, from which an appeal may be filed.

O.A.C. 124-1-03(B) provides that appeals from layoffs, abolishments, and displacements shall be filed with the State Personnel Board of Review within ten calendar days after receipt of notice of the action. **In the event that Appellant**

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receives a subsequent letter from Appellee notifying Appellant that she will be laid off or displaced, or that Appellant's position has been abolished, Appellant must file a new appeal with this Board to preserve her rights. Such an appeal must be filed with this Board in a timely manner pursuant to O.A.C. 124-1-03(B). A copy of the notice shall be attached to the Appellant's appeal.

Based on the foregoing, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction, pursuant to R.C. 124.328 and O.A.C. 123:1-41 *et seq.*

  
Jeannette E. Gunn  
Administrative Law Judge