

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Jaime L. Clutter,

*Appellant,*

v.

Case No. 08-OSH-08-0490

Columbiana County Department of Job and Family Services,

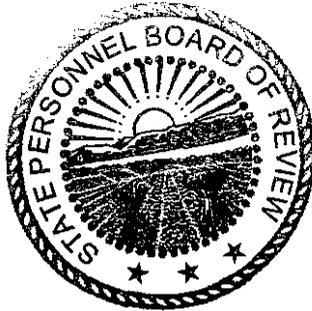
*Appellee*

**ORDER**

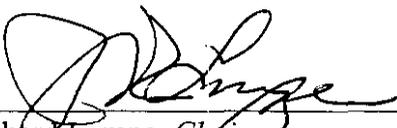
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 over its subject matter, pursuant to R.C. 4167.13 (A).



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



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

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

Jaime L. Clutter,

Case No. 08-OSH-08-0490

*Appellant*

v.

November 5, 2008

Columbiana County Department of  
Job & Family Services,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration due to Appellant's August 28, 2008, filing of an appeal alleging that her removal constituted a retaliatory action as prohibited by R.C. 4167.13. R.C. 4167.13 states, in pertinent part:

(A) No public employer shall discharge or in any manner discriminate against any public employee because the public employee, in good faith, files any complaint or institutes any proceeding under or related to this chapter, or testifies or is about to testify in any proceeding, or because of the exercise by the public employee, on his own behalf or on the behalf of others, of any right afforded under this chapter.

...

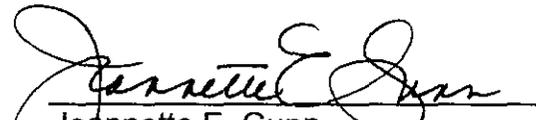
**CONCLUSIONS OF LAW**

In order to invoke the protection of R.C. 4167.13, a public employee must meet one or more of three criteria: 1) the employee must have filed a complaint or instituted a proceeding under or related to R.C. Chapter 4167.; 2) the employee must have testified or be about to testify in a proceeding; or 3) the employee must have acted on his or her own behalf, or on behalf of others, in exercising a right afforded by R.C. Chapter 4167.. In response to this Board's October 10, 2008, Procedural Order and Questionnaire, Appellant indicated that she had not filed a complaint or instituted a proceeding under or related to R.C. Chapter 4167., had not

Jaime L. Clutter  
Case No. 08-OSH-08-0490  
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testified and was not about to testify in a proceeding, and had not acted on her own behalf, or on behalf of others, in exercising a right afforded by R.C. Chapter 4167..

Therefore, because Appellant has failed to demonstrate *prima facie* evidence of her compliance with R.C. 4167.13(A), I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of subject matter jurisdiction.

  
Jeannette E. Gunn  
Administrative Law Judge

JEG: