STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Keith Hackle,

Appellant,

v.

Case Nos.: 08-REM-03-0086
08-RED-03-0087

Rescare Ohio,

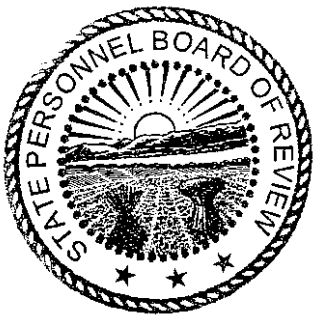
Appellee.

ORDER

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

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 appeals be **DISMISSED** for lack of subject matter jurisdiction, pursuant to O.R.C. §§ 124.03 and 124.11(A)(18).



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, July 25, 2008.

Michelle Hunsey
Clerk

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

7-25-08

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

KEITH HACKLE,	Case Nos. 08-REM-03-0086 08-RED-03-0087
Appellant	
v.	June 27, 2008
RESCARE OHIO,	
Appellee	JAMES R. SPRAGUE *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These causes come on due to Appellant's filing of appeals from his potential reduction from a Director of Operations to a Qualified Mental Retardation Professional (QMRP) with a concomitant potential salary reduction from $45,000 per annum to potentially $30,000 per annum. The record appears to reflect that Appellant was placed on what was administrative leave, with pay for 30 days of that leave, pending a review of a criminal allegation that may have impacted on his ability to hold the Director of Operations position. Upon the completion of a grievance procedure, Appellant was offered the aforementioned QMRP position, apparently as a new hire. Appellant did not accept this position and, so, was considered to have resigned from Appellee's organization(s).

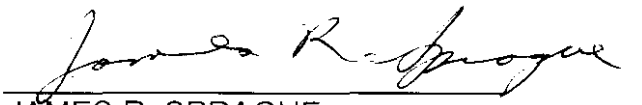
On May 20, 2008, this Board issued a Procedural Order and accompanying Questionnaire to Appellee regarding the subject matter referenced, above. On June 12, 2008, Appellee filed its response. It was not clear from Appellee's response whether Appellee also served a copy of that response upon Appellant. Thus, on June 13,2008, this Board provided Appellant with a copy of Appellee's response as an attachment to a letter. On June 26, 2008, Appellant filed his reply to Appellee's response to the Questionnaire.

From the contents of Appellant's reply, it appears that Appellant continues to assert that this Board possesses jurisdiction over the subject matter involved in the two instant appeals. However, it also appears that Appellant asserts or acknowledges that his position of Director of Operations fell within the unclassified service pursuant to R.C. 12411 (A)(18), which involves certain positions whose

employees are employed by boards of alcohol, drug addition, and mental health services under R.C. Ch. 340.

R.C. 124.03 generally sets forth this Board's subject matter jurisdiction. That jurisdiction includes hearing appeals from removals and reductions pertinent employees whose respective positions fall within the classified service. Yet, that jurisdiction does not extend to the removal or reduction of an employee whose position falls within the unclassified service. Since Appellant asserts or concedes that his position fell with the unclassified service pursuant to R.C. 124.11 (A)(18), this Board lacks jurisdiction over the subject matter of either of Appellant's two instant appeals and they should be dismissed accordingly.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** Appellant's two instant appeals for lack of jurisdiction over their respective subject matter, pursuant to R.C. 124.03 and R.C. 124.11 (A)(18).



JAMES R. SPRAGUE
Administrative Law Judge

JRS: