

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

Pamela R. Gowen,

Appellant,

v.

Case No. 08-REM-09-0498

Department of Public Safety
State Highway Patrol,

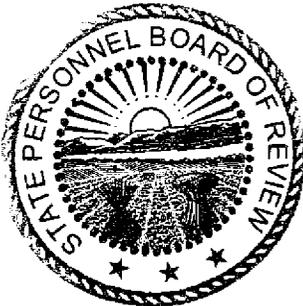
Appellee.

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 O.R.C. § 4117.10(A).



Lumpe - Aye
Booth - Aye
Sfalcin - Aye

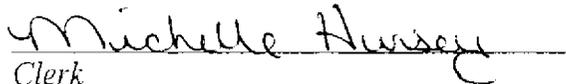


J. Richard Lumpe, *Chairman*

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 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, February 10, 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.

21009

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

PAMELA R. GOWEN,

Case No. 08-REM-09-0498

Appellant

v.

November 19, 2008

DEPARTMENT OF PUBLIC SAFETY,
STATE HIGHWAY PATROL,

JAMES R. SPRAGUE

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

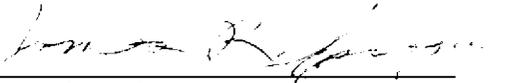
This matter came on for consideration upon Appellee's November 6, 2008 filing of Appellee's motion to dismiss, supporting documentation, and the affidavit of Ohio State Highway Patrol (OSHP) Captain Kevin Teaford, and upon Appellee's November 7, 2008 filing of Appellee's supplement to Appellee's motion to dismiss. Appellee contends therein that the instant matter should properly be resolved through the applicable grievance procedure pursuant to a collective bargaining agreement and that this Board, accordingly, has been divested of jurisdiction to consider the instant matter. Appellant did not file a memorandum *contra* to Appellee's motion to dismiss.

I find that Appellant was classified as an OSHP Sergeant. The Sergeant classification is included in a bargaining unit that is represented by the Ohio State Troopers Association, Inc. (OSTA). Appellee and OSTA have signed a collective bargaining contract that covers Appellant's bargaining unit and position

The above contract contains a grievance procedure that results in final and binding arbitration. Appellant was removed; that action is covered by the contract grievance procedure.

R.C. 4117.10(A) states that, where a bargaining agreement is present that both covers the subject matter at issue and contains a grievance procedure that culminates in final and binding arbitration, this Board is divested of subject matter jurisdiction over the pertinent matter. Accordingly, this Board lacks jurisdiction to hear the instant appeal.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 4117.10 (A).



JAMES R. SPRAGUE
Administrative Law Judge

JRS: