

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

Ralph Fitzpatrick,

Appellant,

v.

Case No. 08-TFR-08-0472

Department of Rehabilitation and Correction, Lebanon 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.

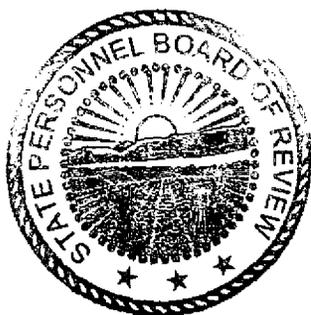
After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

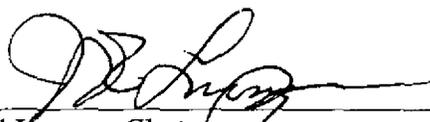
Wherefore, it is hereby **ORDERED** that the instant appeal be **DISMISSED** for failure to timely file, pursuant to O.A.C. 124-1-03.

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 16 2008.



Diana Mills
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**

Ralph Fitzpatrick,

Case No. 08-TFR-08-0472

Appellant

v.

October 10, 2008

Department of Rehabilitation & Correction,
Lebanon Correctional Institution,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration October 10, 2008, upon Appellant's August 6, 2008, filing of an appeal of his alleged transfer. In his appeal, Appellant indicated that he was displaced from a position at Lebanon Correctional Institution to London Correctional Institution; he further indicated that he received notice of the action on or about June 26, 2008, and that the displacement was effective July 21, 2008.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed in a timely fashion. Pursuant to Ohio Administrative Code Section 124-1-03(D), an appeal of a transfer must be filed with this Board within ten (10) calendar days after Appellant received notice of his transfer. Ohio Administrative Code Section 124-1-03(B) requires that appeals from displacements must be filed with the Board, or postmarked, not more than ten calendar days after receipt of the notice of the action. Appellant's August 6, 2008, filing was untimely both as an appeal of a transfer and as an appeal of a displacement action.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** as untimely.


Jeannette E. Gunn
Administrative Law Judge