

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

Laurie Worcester,  
*Appellant,*

v.

Case No. 08-WHB-04-0112

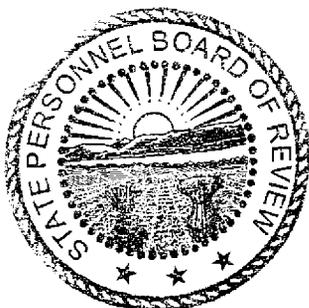
Industrial Commission of Ohio,  
*Appellee.*

**ORDER**

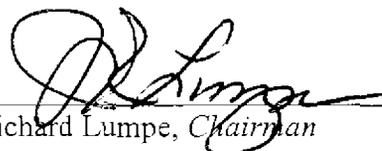
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** since Appellant failed to comply with this Board's June 3, 2008 Procedural Order pursuant to O.A.C. § 124-11-13 and, correspondingly, for Appellant's failure to establish that she met the threshold whistleblower procedural requirements set forth in O.R.C. § 124.341.



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 11, 2008.

  
\_\_\_\_\_  
Michelle Hunsberger  
*Clerk*

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

8-11-08

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

LAURIE WORCESTER,

Case No. 08-WHB-04-0112

*Appellant*

v.

June 18, 2008

INDUSTRIAL COMMISSION OF OHIO,

JAMES R. SPRAGUE

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellee's May 30, 2008 filing of Notice of Appellee's Intent to Assert Jurisdictional Bar and Motion for Procedural Order. In response to that motion, on June 3, 2008 this Board issued a Procedural Order and attached whistleblower questionnaire to Appellant via United States Postal Service Certified Mail Return Receipt Requested. The Procedural Order contained a mandatory response date for Appellant of June 17, 2008. The Procedural Order also indicated, in bold lettering, "**If the questionnaire is not completed and returned by the due date, then this Board may take whatever action is appropriate.**"

As noted in Appellee's May 30, 2008 filed motion, in a whistleblower appeal filed with this Board pursuant to R.C. 124.341, the Appellant bears the burden to establish that Appellant met the procedural prerequisites (and substantive prerequisites) set for in that Revised Code provision. These include **demonstrating that the Appellant filed a written report with the requisite individual or entity** and, after the date of filing of that written report, the Appellant experienced an adverse impact or retaliatory conduct from the relevant appointing authority or agent thereof. Failure to so demonstrate bars an Appellant from further prosecution of the pertinent whistleblower claim before this Board.

O.A.C. 124-11-13 (A) provides this Board with the authority to issue Procedural Orders. Further, O.A.C. 124-11-13 (B) allows this Board to dismiss an appeal or grant other appropriate relief to the opposing party when the party to whom the Procedural Order is directed fails to comply with that Procedural Order.

LAURIE WORCESTER  
Case No. 08-WHB-04-0112  
Page 2

In this case, Appellant has failed to comply with the express instructions contained within this Board's June 3, 2008 Procedural Order, permitting this Board to grant whatever relief is necessary pursuant to O.A.C. 124-11-13. Further, by failing to file her required response, Appellant has also failed to establish that she met the threshold whistleblower procedural requirements set forth in R.C. 124.341. Accordingly, the instant case should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for Appellant's failure to comply with this Board's Procedural Order pursuant to O.A.C. 124-11-13 and, correspondingly, for Appellant's failure to establish that Appellant met the threshold whistleblower procedural requirements set forth in R.C. 124.341.

  
JAMES R. SPRAGUE  
*Administrative Law Judge*

JRS: