

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Jamie E. Smith,

*Appellant,*

v.

Case No. 09-FRN-09-0397

Industrial Commission of Ohio,

*Appellee.*

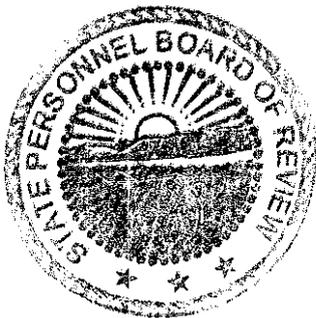
**ORDER**

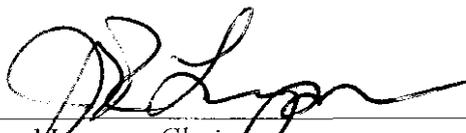
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** for lack of jurisdiction over its subject matter, pursuant to O.R.C. § 4117.10 (A).

Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

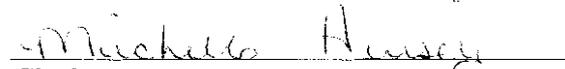


  
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J. Richard Lumpe, *Chairman*

**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 4, 2010.

  
\_\_\_\_\_  
*Clerk*

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

2/4/10

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

JAMIE E. SMITH,

Case No. 09-FRN-09-0397

*Appellant*

v.

January 8, 2010

INDUSTRIAL COMMISSION OF OHIO,

JAMES R. SPRAGUE

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

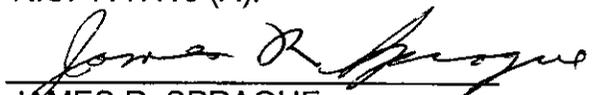
To the Honorable State Personnel Board of Review:

This cause comes on due to Appellee's filing of a motion to dismiss, memorandum in support, and accompanying documentation, including the affidavit of Jason Barnett, Appellee's Deputy Director of Human Resources. Appellant was provided with the requisite time in which to file a memorandum *contra* but, to date, has not done so.

O.A.C. 124-11-07 governs the motions practice before this Board. O.A.C. 124-11-07 (A)(2) and (C) combine to require Appellant to file a response to Appellee's motion to dismiss and to demonstrate that there is a genuine issue in dispute in this matter. Appellant has failed to comply with the requirements set forth in O.A.C. 124-11-07.

As well, Appellee has presented sufficient documentation to support its argument that this Board is barred from further considering the instant matter by operation of R.C. 4117.10 (A); as this matter falls under the exclusive jurisdiction of the pertinent collective bargaining agreement covering Appellant's position.

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

  
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JAMES R. SPRAGUE  
*Administrative Law Judge*