

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

Howard E. Loftus Jr.,

Appellant,

v.

Case No. 09-LAY-09-0410

Ashtabula County Juvenile Court,

Appellee.

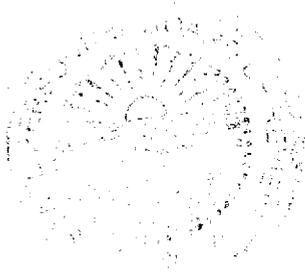
ORDER

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 subject matter jurisdiction, pursuant to O.A.C. § 124-1-03(B).

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



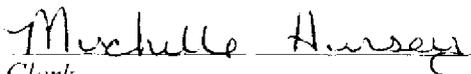


J. Richard Lumpe, *Chairman*

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, November 6, 2009.



Michelle Hirshey
Clerk

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

11-6-09mkt

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

Howard E. Loftus Jr.

Case No. 09-LAY-09-0410

Appellant

v.

September 21, 2009

Ashtabula County Juvenile Court

Marcie M. Scholl

Appellee

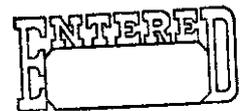
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

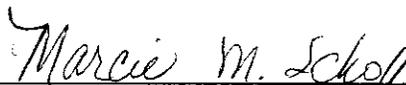
This matter came on for consideration September 21, 2009, upon Appellant's filing of an appeal of his layoff.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed or postmarked within ten (10) calendar days after Appellant received notice of the layoff, as required by Ohio Administrative Code section 124-1-03(B). Appellant Loftus stated in his notice of appeal that he received the notice of layoff on August 27, 2009. According to the statute and administrative rule, Appellant Loftus's timely appeal should have been postmarked within ten calendar days of that date, or by September 6, 2009. Since that day is a Sunday, the filing date is extended to the next business day, so the appeal would have had to been postmarked or filed with this Board by September 7, 2009. Appellant Loftus' appeal was postmarked on September 11, 2009 and was filed in the Board's office on September 14, 2009. Thus, it is untimely and this Board is without jurisdiction to hear an appeal untimely filed.



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Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** due to a lack of subject matter jurisdiction.



Marcie M. Scholl
Administrative Law Judge

:mms