

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

Carla Stocker,

Appellant,

v.

Case No. 09-LAY-10-0430

Coshocton County,
Job and Family Services,

Appellee.

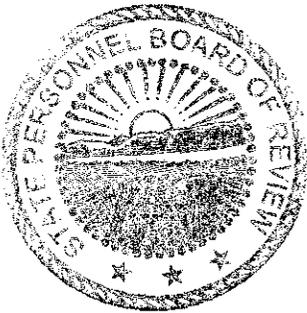
ORDER

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** due to lack of jurisdiction, pursuant to O.R.C. § 124.327.

Lumpe - Not Participating
Sfalcin - Aye
Tillery - Aye



Adriana Sfalcin
Adriana Sfalcin, *Vice 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, October 1, 2010.

Michelle Henry
Clerk

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

10/1/10 MA

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

Carla Stocker,

Case No. 09-LAY-10-0430

Appellant

v.

September 8, 2010

Coshocton County Job & Family Services,

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for consideration pursuant to Appellee's Motion to Dismiss, filed with this Board on August 10, 2010, and Appellee's Motion to Supplement, filed on August 24, 2010. Appellant filed a memorandum *contra* on September 7, 2010.

Appellee asserts that this Board is without jurisdiction to consider the instant matter because Appellant has raised no issues of law or fact over which the Board may exercise its statutory authority.

Uncontroverted information contained in the record indicates that Appellant was displaced from her position, which was classified as Child Support Case Manager, and subsequently laid off on October 7, 2009. In her May 26, 2010, response to the Board's May 4, 2010, Procedural Order and Questionnaire, Appellant indicated that she intended to challenge her layoff only with regard to her displacement rights and to Appellee's failure to permit her to be recalled into a vacant Account Clerk 2 position.

As noted in this Board's May 4, 2010, Procedural Order, R.C. 124.324(A) provides that a laid-off employee may displace the employee with the fewest retention points within the classification from which the employee was laid off; within the classification series from which the employee was laid off; and within a classification the employee held immediately prior to holding the classification from which the employee was laid off, as long as the employee held that classification within the three years prior to his or her layoff and meets the minimum qualifications of that classification. Uncontroverted information contained in the record indicates

that there were no positions within Appellant's classification of Child Support Case Manager or within that classification series into which she could displace, and there were no positions that Appellant had held within the three years prior to her layoff into which she could displace. Accordingly, I find that there remains no unresolved issue of law or fact with regard to Appellant's ability to displace another employee.

With regard to Appellant's argument that Appellee improperly failed to recall her into a vacant Account Clerk 2 position, I note that R.C. 124.327 governs reinstatements from layoffs and provides that laid off employees are placed on layoff lists for classifications in the series from which they are laid off that are equal to or lower than the classification held by the employee at the time of his or her layoff. The Account Clerk 2 classification does not appear to be in the same classification series as the position held by Appellant at the time of her layoff. Regardless, case law has established that this Board does not have statutory jurisdiction to determine recall rights. See, *State, ex rel. Carver v. Hull* (1994), 70 Ohio St.3d 570. Accordingly, I find that there is no issue of law or fact with regard to Appellant's recall rights over which this Board may exercise jurisdiction.

Therefore, based upon the above analysis, I find that Appellee's assertion that the Board lacks jurisdiction to further consider the instant matter is well-taken. Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED**.


Jeannette E. Gunn
Administrative Law Judge

JEG: