

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

Leslie S. Cookson,

Case Nos. 09-LAY-09-0418
09-REC-09-0419

Appellant,

v.

Bowling Green State University,

Appellee.

ORDER

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

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 appeals be **DISMISSED** for lack of subject matter jurisdiction due to Appellant's untimely filing of her appeals, pursuant to O.A.C. §§ 124-1-03(A) and 123:1-41-11(H).

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



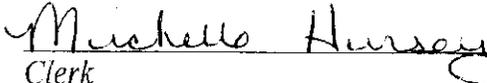


J. Richard Lumpe, *Chairman*

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 Hursey
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**

Leslie S. Cookson

Appellant

v.

Bowling Green State University

Appellee

Case Nos. 09-LAY-09-0418
09-REC-09-0419

September 21, 2009

Marcie M. Scholl
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 her displacement.

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 her displacement, as required by sections 124-1-03(B) and 123:1-41-11(H) of the Ohio Administrative Code.

Appellant Cookson states in her notice of appeal that she received notice she was being displaced from her position of Word Processing Specialist 2 position on September 3, 2009. Pursuant to administrative rule 123:1-41-11(H), that is the day from which her appeal time begins to run. That rule states as follows:

(H) Appeal rights. **A classified employee may appeal** a layoff, or **a displacement which is the result of a layoff**, to the state personnel board of review. **Such an appeal must be filed or postmarked no later than ten calendar days after the employee receives notice of the layoff or the date the employee is displaced. An employee shall be considered displaced the date the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position.** An appeal shall be made in accordance with the rules promulgated by the state personnel board of review. (Emphasis added).

the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position. An appeal shall be made in accordance with the rules promulgated by the state personnel board of review. (Emphasis added).

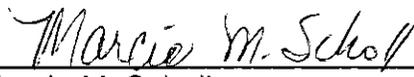
Since Appellant Cookson states she was notified on September 3, 2009, of her displacement, her appeal to this Board would have had to be postmarked or received in the offices of the Board within ten days of that date, or by September 13, 2009. Since that date was a Sunday, the appeal time would have been extended to the following business day, or September 14, 2009. Appellant Cookson's appeal was not filed with this Board until September 16, 2009. Thus, the appeal is untimely. This Board's administrative rule 124-1-03(B) states:

(B) Appeals from layoffs, abolishments, and displacements shall be in writing and shall be filed with the board, or postmarked, not more than ten calendar days after receipt of the notice of the action. A copy of the notice of layoff, abolishment or displacement shall be attached to the appeal. (Emphasis added).

With respect to Appellant Cookson's appeal regarding her reclassification, she stated in her notice of appeal that she was told on September 2, 2009 that her reclassification was being put on hold. She also stated that in a meeting on September 3, 2009, she was notified that the recommendation from Human Resources was to reclassify her position to a Secretary 1. Had Appellant Cookson filed a timely appeal of her displacement, the issue regarding her reclassification could have been considered; however, since her appeal was untimely filed, this Board is without jurisdiction to review her displacement and any issues surrounding such displacement.

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Therefore, since Appellant Cookson's appeal was not timely filed, it is my **RECOMMENDATION** that this appeal be **DISMISSED** due to a lack of subject matter jurisdiction pursuant to sections 124-1-03(A) and 123:1-41-11(H) of the Ohio Administrative Code.



Marcie M. Scholl
Administrative Law Judge

:mms