

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Regina Garmon-Brown,

Appellant,

v.

Case No. 09-RED-08-0376

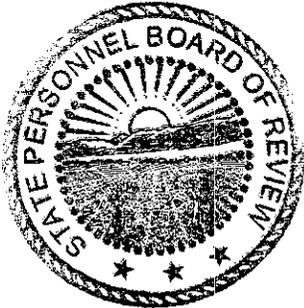
Lucas County Children Services,

Appellee.

ORDER

This matter came on for consideration on the motion of Appellee that the Rescission attached hereto be adopted. Being fully advised in the premises, the Board hereby orders that the attached rescission, incorporated herein by reference and made a part of the case file in this appeal, be **ADOPTED**, and that Appellant's appeal be **DISMISSED**.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



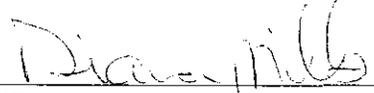


J. Richard Lumpe, *Chairman*

CERTIFICATION

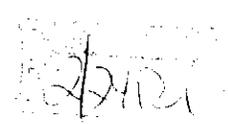
The State of Ohio, State Personnel Board of Review, ss:

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, Feb. 24, 2010.



Clerk

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





STATE PERSONNEL
 BOARD OF REVIEW

2010 FEB -5 AM 11:45

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February 2, 2010

Administrative Law Judge Jeannette E. Gunn
 State Personnel Board of Review
 65 East State Street, 12th Floor
 Columbus, OH 43215-4213

Dear Ms. Gunn:

**Subject: Case Number 09-RED-08-0376
 Regina Garmon-Brown, Appellant**

The above-referenced case is set for Record-Hearing on February 8, 2010 at 10:00 a.m. Please be advised that a decision has been made by Lucas County Children Services to rescind the previous Order of Reduction (one day vacation leave accrual) and instead substitute the attached Order of Suspension (one day working suspension.) This substituted disciplinary action is no longer in the jurisdiction of SPBR, and therefore the February 8th Record-Hearing should be cancelled.

A copy of the substituted Order of Suspension was hand-delivered to Ms. Garmon-Brown today.

Sincerely,

LUCAS COUNTY CHILDREN SERVICES

Cheryl Winter

Cheryl Winter, Human Resources Supervisor

Enclosure: Order of Suspension

cc: R. Garmon-Brown, James Walter

Sent via 1) Fax (614) 466-6539 and 2) Certified Mail



2-5-10mt

LUCAS COUNTY CHILDREN SERVICES
Revised Disciplinary Action: Order of Suspension

Employee Name: <u>Regina Garmon-Brown</u> Position: <u>Education Services Specialist</u>
Date Pre-disciplinary Meeting Notice Given to Employee: <u>July 21, 2009</u>
Date Pre-disciplinary Meeting was Held: <u>July 28, 2009 (Employee present)</u>
Date of Delivery of the Disciplinary Order: <u>August 10, 2009 (Hand-delivered)</u>
Date of Delivery of the Revised Disciplinary Order: <u>February 4, 2010 (Hand-delivered)</u> <i>2 cw</i>

This order provides formal notification that:

- ✓ **Suspended for one (1) day. This suspension will be served as a "working suspension." The effective date of your suspension will be reflected as August 17, 2009.**

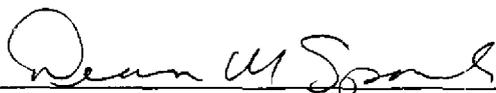
This disciplinary action is taken due to issues of:

Misfeasance, Neglect of Duty, and Insubordination

Specifically:

- 1. Continuing pattern of tardiness; ongoing failure to report to work by 8:30 a.m., as repeatedly instructed by supervisor(s).**
- 2. Failure to follow "notice" procedures when not reporting to work by 8:30 a.m., as instructed by supervisor.**

The basis for this disciplinary action is more fully described in Mrs. Parker's report of the July 28, 2009 pre-disciplinary meeting. Failure to correct your performance may result in additional disciplinary action, up to and including removal from your position.

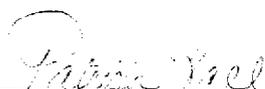


Dean M. Sparks, Executive Director
Lucas County Children Services - Toledo, Ohio

STATE PERSONNEL
BOARD OF REVIEW
2010 FEB - 5 AM 11:45

I have received a copy of this notice.
_____ Employee Signature

→ *Employee declined to sign.*
CWinters



Witness signature (if any)

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

Regina Garmon-Brown,

Case No. 09-RED-08-0376

Appellant

v.

February 3, 2010

Lucas County Children Services,

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on February 3, 2010. I find that Appellant originally filed this appeal to protest her eight-hour reduction in vacation leave. Information submitted by Appellee on February 2, 2010, demonstrates that Appellant's reduction has been modified to reflect a one-day working suspension.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions of more than three days, removals, reductions, layoffs and abolishments. Suspensions of three days or less are not appealable to the State Personnel Board of Review, pursuant to Ohio Revised Code Section 124.34. Only suspensions in excess of three days are appealable, see *Gillard v. Norris* (1988), 857 F.2d 1095; *Rapier v. Darke County Board of Mental Retardation and Developmental Disabilities* (Mar. 10, 1993), Franklin Co., No. 92-CV-09-7589, unreported.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of subject matter jurisdiction and the hearing date of February 8, 2010, be vacated.



Jeannette E. Gunn
Administrative Law Judge