

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

Kimberly Thompson,

*Appellant,*

v.

Case No. 09-REM-05-0249

Eopa Toledo Head Start,

*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, pursuant to O.R.C. § 4117.10(A).

Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

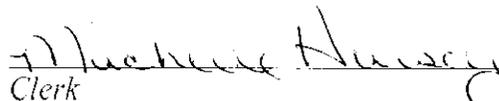


  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

**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, October 8, 2009.

  
\_\_\_\_\_  
Michelle Hunsley  
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**

Kimberly Thompson,

Case No. 09-REM-05-0249

*Appellant*

v.

September 8, 2009

EOPA Toledo Head Start,

Christopher R. Young

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

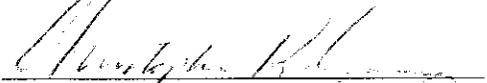
This matter came on for consideration on September 4, 2009, upon Appellee's Motion to Dismiss For Lack of Jurisdiction. Appellee contends this matter is properly resolved through the grievance procedure pursuant to a collective bargaining agreement and this Board lacks jurisdiction to consider the matter. To date, the Appellant has not filed a memorandum *contra*.

I find that the Appellant is classified as a Bus Driver. The Bus Driver classification is included in a bargaining unit which is represented by Ohio Association of Public School Employees (OASPE)/AFSCME Local 4, AFL-CIO. Appellee EOPA Toledo Head Start and Ohio Association of Public School Employees (OASPE)/AFSCME Local 4, AFL-CIO have signed a collective bargaining contract, which covers the Appellant's bargaining unit.

The above contract provides a grievance procedure resulting in final and binding arbitration. The Appellant was removed; this action is covered by the contract grievance procedures. Ohio Revised Code Section 4117.10(A) states that where a bargaining agreement provides a grievance procedure which culminates in final and binding arbitration, the State Personnel Board of Review has no jurisdiction. This Board is, therefore, without jurisdiction to hear the instant appeal.

Kimberly Thompson  
Case No. 09-REM-05-0249  
Page 2

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of jurisdiction.

  
\_\_\_\_\_  
Christopher R. Young  
Administrative Law Judge

CRY: