

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

Rita Stephens,

*Appellant*

v.

Case No. 09-REM-10-0454

Shelby County Board of Commissioners,

*Appellee*

**ORDER**

This matter came on for consideration before the full Board. Based upon the reasoning set forth in the Board's Opinion attached hereto, the Board hereby disaffirms the Order of Removal.

Wherefore, it is hereby **ORDERED** that Appellant's Order of Removal be **DISAFFIRMED** for the reasons set forth in the Board's Opinion, attached hereto.

Lumpe – Aye

Sfalcin – Aye

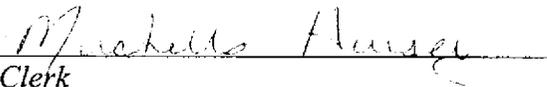
Tillery – Aye

  
\_\_\_\_\_  
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 the foregoing is ~~(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, December 10, 2009.

  
\_\_\_\_\_  
*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  
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RITA STEPHENS,

*Appellant*

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Case No. 09-REM-10-0454

SHELBY COUNTY BOARD OF COMMISSIONERS,

*Appellee*

OPINION

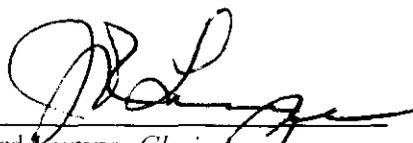
Appellant was removed pursuant to an R.C. 124.34 Order of Removal. However, the Order was defective in the following manner:

Ohio Administrative Code Section 124-03-01(A) requires that before an Order may be affirmed, the appointing authority must satisfy the following:

- (2) The employer shall serve the employee with a copy of the order *on or before the effective date of the action*; (emphasis added)

Appellee has failed to comply with Ohio Administrative Code Section 124-03-01(A)(2). This is because Appellee should have been served Appellant with her Order of Removal (either through personal delivery or through certified U.S Mail) *on or before August 11, 2009*. Yet, Appellee has failed to rebut Appellant's assertion that Appellee served Appellant with her Order of Removal *after that date*. Nor does it appear that Appellee can actually demonstrate that Appellant was served through utilization of either of the two required methods of service set forth in R.C. 124.34 and noted, above.

Therefore, the instant R.C. 124.34 Order of Removal is **DISAFFIRMED**. Disaffirmance of an R.C. 124.34 Order under O.A.C. 124-03-01(A) shall not be a bar to refileing an Order, based upon the same incidents, which complies with the rule. O.A.C. 124-03-01(B).

  
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J. Richard Lumpe, *Chairman*