

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

James Payne,

Appellant,

v.

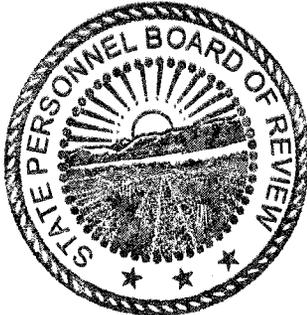
Case No. 10-LAY-05-0120

Miami University,

Appellee

ORDER

This matter came on for consideration on the motion of Appellant that the Withdrawal attached hereto be adopted. Being fully advised in the premises, the Board hereby orders that the attached withdrawal, incorporated herein by reference and made a part of the case file in this appeal, be **ADOPTED**. Accordingly, the above-referenced appeal is hereby **DISMISSED**.



Lumpe - Aye
Sfalcin - Aye
Tillery - Aye

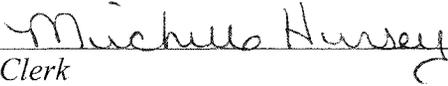


J. Richard Lumpe, *Chairman*

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, September 3, 2010.



Clerk

I am withdrawing
my appeal
Thanks

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STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

James Payne,

Case No. 10-LAY-05-0120

Appellant

v.

August 3, 2010

Miami University,

Jeannette E. Gunn

Appellee

Administrative Law Judge

2010 AUG 19 AM 9:02
STATE PERSONNEL BOARD OF REVIEW

PROCEDURAL ORDER

This cause comes on for consideration on August 3, 2010, pursuant to a review of Appellee's Motion to Dismiss, filed with this Board on July 12, 2010. Appellant filed no memorandum *contra*.

Appellee asserts in its Motion to Dismiss that Appellant's job abolishment and subsequent displacement were procedurally correct and notes that Appellant has indicated in a prior filing with this Board that he does not intend to challenge Appellee's actions on procedural grounds. Appellee further asserts that Appellant's challenge to his displacement rights is invalid because Appellee has properly promulgated rules for governing layoffs and displacements, and Appellant may not challenge his displacement based upon his perceived inequity of those rules.

Upon a review of the information contained in the record, I find that Appellee correctly stated that Appellant has indicated he does not intend to challenge the notification process used by Appellee to inform him of his displacement. Appellant does indicate, however, that he intends to challenge his displacement rights, i.e., that he should have been permitted to displace somewhere or someone else.

Appellant noted in his response to this Board's Procedural Order and Questionnaire both that he felt that "seniority was ignored" and that he did not feel that his position "should fall into the jurisdictions." Although Appellant correctly notes that Appellant may not challenge his displacement based upon his disagreement with the equity of properly promulgated rules, Appellee's rules do provide for the exemption of positions from layoff jurisdictions. Therefore, I find that Appellant should have the opportunity to demonstrate at record hearing whether or not his position as Senior Technical Services Specialist falls within the exemption created by Miami Rule 3339-19-07(D)(6)(b).

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