

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Carla Stocker,

*Appellant,*

v.

Coshocton County Job and Family Services,

*Appellee.*

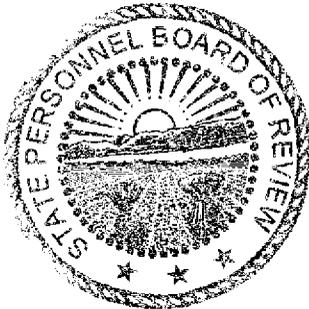
Case Nos. 10-ABL-06-0168  
10-LAY-06-0169  
10-REC-06-0170  
10-MIS-06-0171

**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 SPBR Case Nos. 10-ABL-06-0168 and 10-LAY-06-0169 be DISMISSED as untimely pursuant to O.A.C. § 124-1-03 (B), and that SPBR Case Nos. 10-REC-06-0170 and 10-MIS-06-0171 be DISMISSED for lack of subject matter jurisdiction.



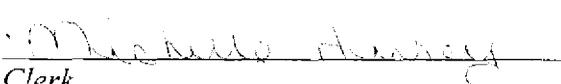
Lumpe - Not Participating  
Sfalcin - Aye  
Tillery - Aye

  
\_\_\_\_\_  
Adriana Sfalcin, *Vice 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 1, 2010.

  
\_\_\_\_\_  
Clerk

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

10-1-10 MH

**STATE OF OHIO  
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Coshocton County Job & Family Services,

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Case Nos. 10-ABL-06-0168  
10-LAY-06-0169  
10-REC-06-0170  
10-MIS-06-0171

August 25, 2010

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

The above-referenced matters came on for consideration pursuant to Appellee's Motion to Dismiss, filed with this Board on August 10, 2010. Appellant filed no memorandum *contra*. Appellee asserts that this Board is without jurisdiction to consider these matters.

Uncontroverted information contained in the record indicates that Appellant was laid off from her Child Support Case Manager in October 2009, as the result of her displacement by another employee. Appellant timely filed an appeal of that layoff with this Board (SPBR Case No. 09-LAY-10-0430).

Ohio Administrative Code Section 124-1-03 sets forth the time limits for filing an appeal with this Board. O.A.C. 124-1-03(B) provides that appeals from layoffs, abolishments, and displacements must be filed not more than ten calendar days after receipt of the notice of the action. As noted above, Appellant's displacement and subsequent layoff took place in October 2009, more than seven months prior to Appellant's filing of the above-referenced appeals. Accordingly, I find that SPBR Case Nos. 10-ABL-06-0168 and 10-LAY-06-0169 are untimely filed.

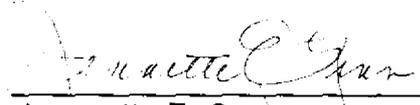
Pursuant to O.A.C. 123:1-3-01(B), a classified employee of a county office may request a review of the classification of his or her position, unless otherwise prohibited by law or by a collective bargaining agreement. The employee's request must be filed with the Director of the Department of Administrative Services or with an individual authorized to perform the director's functions. Pursuant to R.C. 124.03(A), a job classification decision rendered by the Director of the Department of Administrative Services or anybody authorized to perform the director's functions

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may be appealed to this Board. The record contains no evidence indicating that a job audit of Appellant's position was conducted by the Department of Administrative Services or any other entity, therefore, I find that Appellant has suffered no reclassification action over which this Board may exercise its jurisdiction with regard to SPBR Case No. 10-REC-06-0170.

In correspondence attached to the form utilized by Appellant to file the above-referenced appeals, Appellant argued that she should have been able to exercise her recall rights to fill one of two Clerk positions that became available in June 2010; that issue forms the basis of SPBR Case No. 10-MIS-06-0171. Pursuant to applicable case law, I find that this Board does not have statutory jurisdiction to determine recall rights. See, *State, ex rel. Carver v. Hull* (1994), 70 Ohio St.3d 570, and may not exercise authority to consider SPBR Case No. 10-MIS-06-0171.

Therefore, I respectfully **RECOMMEND** that SPBR Case Nos. 10-ABL-06-0168 and 10-LAY-06-0169 be **DISMISSED** as untimely, and that SPBR Case Nos. 10-REC-06-0170 and 10-MIS-06-0171 be **DISMISSED** for lack of subject matter jurisdiction.

  
\_\_\_\_\_  
Jeannette E. Gunn  
Administrative Law Judge

JEG: