

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Britani Cottingim,

Appellant.

v.

Case No. 10-REM-05-0123

Preble County,
Board of Developmental Disabilities,

Appellee.

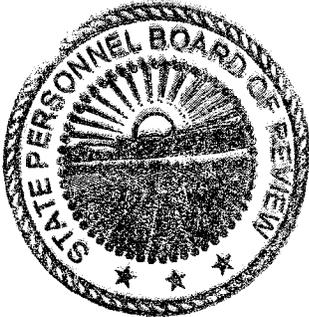
ORDER

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** as this Board is without jurisdiction to hear this appeal, pursuant to O.R.C. §§ 124.27(C) and 124.34.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



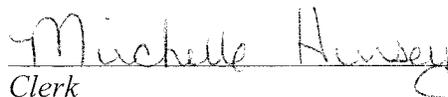


J. Richard Lumpe, *Chairman*

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.



Michelle Hunsen
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**

Britani Cottingim

Case No. 10-REM-05-0123

Appellant

v.

August 12, 2010

Preble County Board of
Developmental Disabilities

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon Appellant's appeal of her removal, filed on May 3, 2010. A Procedural Order and Questionnaire was issued by this Board on May 28, 2010 to Appellee. The Appellee was asked in the Questionnaire to provide the dates of Appellant Cottingim's probationary period. Appellee filed its response to the Questionnaire on June 4, 2010 and also included in the response was a Motion to Dismiss. Appellant Cottingim did not file an optional reply nor a memorandum *contra*.

The documents submitted by Appellee clearly establish that Appellant Cottingim was initially hired as a "substitute" on November 16, 2009 and was subsequently hired as a full-time employee on January 4, 2010. Attached to Appellee's response to the Questionnaire was a copy of the Appellee's Personnel Policy manual. That manual states as follows, in pertinent part:

4. PROBATIONARY PERIODS

A. Original Appointments

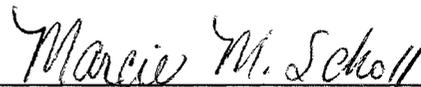
All full-time appointments shall be for a probationary period of 120 days for classified employees. . . .

Since Appellant Cottingim was hired as a full-time employee on January 4, 2010, her 120 day probationary period would have ended on May 4, 2010. Appellant Cottingim was removed from her position effective April 23, 2010, which means she was still in her probationary period at the time of her removal.

Unlike a court of general jurisdiction, this Board has only the authority granted to it by statute. Pursuant to section 124.27(C) of the Ohio Revised Code, there no appeal right to this Board for an employee who is removed during her probationary period. The pertinent part of that statute states as follows:

A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** as this Board is without jurisdiction to hear this appeal.



Marcie M. Scholl
Administrative Law Judge