

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Tammy L. Ayers,

*Appellant,*

v.

Case No. 10-REM-10-0275

Pickaway County General Health District,

*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 Appellant's removal be **DISAFFIRMED**, since the appointing authority has failed to comply with O.A.C. § 124-03-01(A)(1) and (A)(2).



Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

*Richard Lumpe, Chairman*  
for 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, December 13, 2010.

*Michelle Hunsay*  
Clerk

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

12-13-10

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

Tammy L. Ayers,

Case No. 10-REM-10-0275

*Appellant*

v.

November 9, 2010

Pickaway County General Health District,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on for consideration pursuant to Appellant's Motion to Dismiss, filed with this Board on October 26, 2010. Appellant alleges that the R.C. 124.34 Order of Removal served upon her by Appellee is procedurally defective, specifically, that it was not properly signed by the appointing authority; it was not served upon her prior to the effective date; and it did not state with particularity the basis for her removal. Appellee filed no *memorandum contra*.

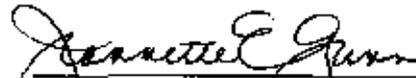
Ohio Administrative Code Section 124-03-01(A) requires that before an Order may be affirmed, the appointing authority must satisfy certain criteria. An R.C. 124.34 Order may be affirmed by the Board only if each of the following elements are satisfied:

- (1) The copy of the order served on the employee shall bear the original signature of the appointing authority and the date of signature. If an appointing authority is a public body, the order must contain the signatures of a majority of the members, or in the alternative, a certified copy of the resolution adopting the order shall be attached to each copy of the order; and
- (2) The employer shall serve the employee with a copy of the order on or before the effective date of the action; and
- (3) The order shows, on its face, a list of particulars which form the basis for the order; and

Tammy L. Ayers  
Case No. 10-REM-10-0275  
Page 2

- (4) The appointing authority can, if challenged, demonstrate both the authority of the signer and the authenticity of the signature on a "section 124.34 order" or an order of involuntary disability separation.

Based upon the information contained in the record, I find that the appointing authority has failed to comply with Ohio Administrative Code Section 124-03-01(A)(1) and (A)(2). Therefore, I respectfully **RECOMMEND** that Appellant's removal be **DISAFFIRMED**.

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

JEG: