

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

STUART SIMS,

Appellant,

v.

Case No. 10-SUS-11-0318

DEPARTMENT OF YOUTH SERVICES,
CENTRAL OFFICE,

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 this appeal be **DISMISSED** for lack of subject matter jurisdiction, pursuant to Ohio Revised Code Section 124.34(B).



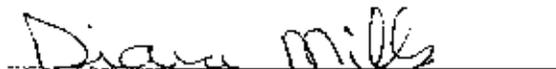
Casey - Aye
Lumpe - Aye
Tillery - Aye


TERRY L. CASEY, 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 constitutes (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 19, 2011.


Clerk

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

9/19/11

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Stuart Sims,

Case No. 10-SUS-11-0318

Appellant

v.

February 7, 2011

Department of Youth Services,
Central Office,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

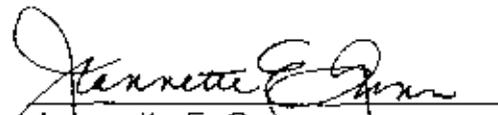
To the Honorable State Personnel Board of Review:

This matter came on for consideration on February 4, 2011, pursuant to Appellee's Motion to Dismiss, filed with this Board on January 11, 2011. Appellee alleges that this Board is without jurisdiction to consider the instant appeal. Appellant filed no memorandum *contra*.

Based upon the uncontroverted information contained in the record, I find that Appellant filed this appeal to protest his twenty-four hour suspension. Evidence indicates that at the time of his suspension, Appellant occupied a position classified as Unit Manager, which is an overtime exempt position.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.34(B) grants this Board authority to review suspensions of employees exempt from the payment of overtime compensation when they exceed forty work hours. Suspensions of shorter duration are not appealable.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of subject matter jurisdiction.


Jeannette E. Gunn
Administrative Law Judge