

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

Christine V. Jones,

Appellant,

v.

Case No. 11-IDS-01-0013

Department of Transportation,

Appellee.

ORDER

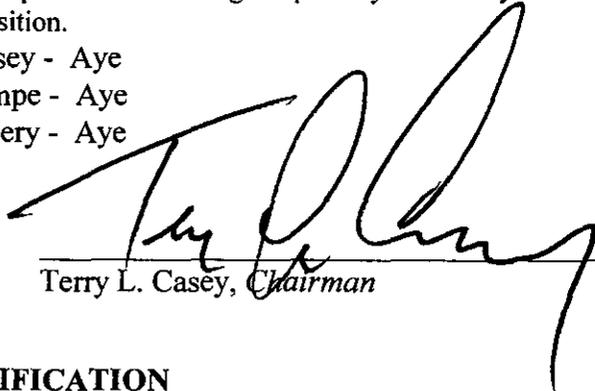
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 involuntary disability separation be **AFFIRMED** since the evidence has established that as of January 7, 2011, Appellant was receiving compensation from the Bureau of Workers Compensation for being temporarily and totally disabled from performing the essential duties of her position.



Casey - Aye
Lumpe - Aye
Tillery - Aye



Terry L. Casey, *Chairman*

CERTIFICATION

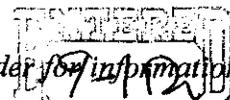
The State of Ohio, State Personnel Board of Review, ss:

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 1, 2011.



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**

Christine V. Jones

Case No. 11-IDS-01-0013

Appellant

v.

August 2, 2011

Department of Transportation

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

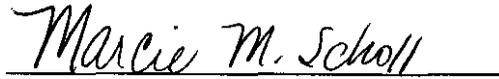
This cause comes on for consideration upon the filing of an appeal by Appellant Jones on January 14, 2011, regarding an appeal from her involuntary disability separation, effective January 7, 2011. This Board issued a Procedural Order and Questionnaire to Appellee on February 4, 2011, and Appellee responded on February 22, 2011, and filed a Supplement to Appellee's Response to Procedural Order on June 17, 2011. Appellant Jones had the option of filing a response to Appellee's reply to the Procedural Order and Questionnaire. To date, Appellant Jones has not filed such optional response.

Appellee indicated in its response that Appellant Jones had been receiving workers compensation benefits, but the questionnaire response did not provide information as to when Appellant Jones received such benefits. Appellee then filed a Supplemental Response and attached documentation showing when Appellant Jones received compensation from the Bureau of Workers' Compensation.

Appellee provided documentation evidencing that Appellant Jones was receiving workers compensation benefits on the effective date of her involuntary disability separation, January 7, 2011. The documentation shows that Appellant Jones received temporary total compensation from the Bureau of Workers' Compensation from September 20, 2010 through April 3, 2011. Appellant Jones did not file any information disputing these dates.

If this appeal were to go to a hearing, the question before the Board would be if Appellant Jones could perform the essential duties of her position as of the effective date of her involuntary disability separation, January 7, 2011. The answer to that question has to be "NO", as the documentation clearly establishes that Appellant Jones received monetary benefits from the Bureau of Workers Compensation covering the time period of January 7, 2011. Appellant Jones could not come before this Board and argue that she could perform the essential duties of her position as of January 7, 2011, when she was at the same time receiving benefits from the Bureau of Workers Compensation for being temporarily totally disabled. To do so would be tantamount to fraud.

Therefore, it is my **RECOMMENDATION** that Appellee's involuntary disability separation of Appellant Jones be **AFFIRMED** as the evidence has established that as of January 7, 2011, Appellant Jones was receiving compensation from the Bureau of Workers Compensation for being temporarily and totally disabled from performing the essential duties of her position.



Marcie M. Scholl
Administrative Law Judge

:mms