

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

LINDA M. MCQUISTION,

Appellant,

v.

Case No. 11-REC-12-0423

REHABILITATION SERVICES COMMISSION,

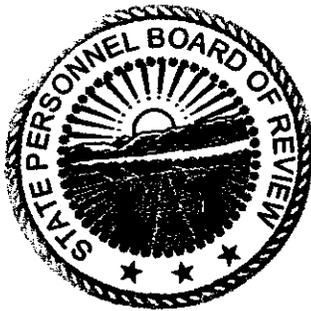
Appellee

ORDER

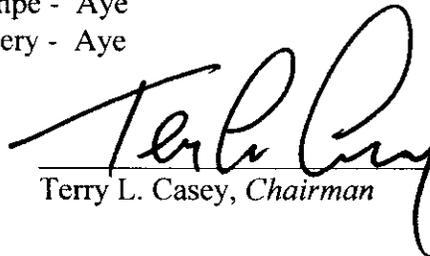
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including 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 is **DISMISSED** since Appellant has not demonstrated that any cognizable harm has yet occurred regarding the reclassification of her position from Administrative Assistant 4 to Program Administrator 3, pursuant to Ohio Revised Code Sections 124.03, 124.14, and 124.328.



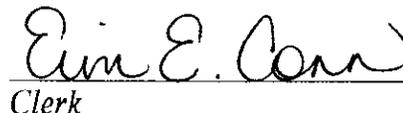
Casey - Aye
Lumpe - Aye
Tillery - Aye

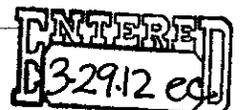

Terry L. Casey, *Chairman*

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, March 29, 2012.


Erin E. Conn
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**

LINDA M. MCQUISTION,

Case No. 11-REC-12-0423

Appellant

v.

February 29, 2012

REHABILITATION SERVICES COMMISSION,

JAMES R. SPRAGUE

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellant's filing of an appeal from a reclassification of her position from Administrative Assistant 4 to Program Administrator 3. Appellant was off work on approved disability at the time of this change. Subsequently, Appellant's position was abolished and Appellant was laid off. Appellant received notice of this reclassification through an examination of her final pay stub that she received as a result of her layoff. Appellant's abolishment and layoff are the subject of a separate appeal currently pending before this Board (*i.e.* Case No. 11-ABL-11-0376).

Following the filing of Appellant's appeal in this case, Appellee filed a motion to dismiss, Appellant filed a response thereto, and Appellee filed a reply to that response.

Subsequent to these filings, a telephone pre-hearing was conducted on February 28, 2012. During the pre-hearing, the undersigned determined that Appellant's position was the subject of a reclassification, as that term is defined in O.A.C. 124-1-02 (X).

The undersigned further determined during the pre-hearing that this reclassification came about pursuant to a settlement agreement entered into between the State of Ohio, Office of Collective Bargaining and the Ohio Civil Service Employees Association, AFSCME, AFL-CIO. The agreement was thereafter effectuated by the State Employment Relations Board.

Additionally, the undersigned determined that, while Appellant's position did undergo a reclassification, the only change to same was a change in the title of the position. Thus, no cognizable harm came to Appellant as a result of this reclassification of her position. Accordingly, no further matter *in the instant appeal* remains that warrants substantial additional attention from this Board.

At the pre-hearing, Appellant reiterated that Appellant has a concern that, in the event she is reinstated to her former position, her position should, but might not, remain in the classified service. Put another way, she was concerned that, though she left a position carried as classified, were she to prevail in her challenge to her abolishment, she might be required to return to her reconstituted position that Appellee had then redesignated as unclassified.

Upon questioning regarding this concern, Appellee's counsel indicated that Appellee would not be asserting a jurisdictional bar in the instant appeal regarding Appellant's status (*i.e.* ostensibly classified at the time of the reclassification of Appellant's position and at the time of Appellant's layoff from that position). *Accordingly, the undersigned herein restates a principal of civil service law in the State of Ohio, namely, when an individual is laid off from a position in the classified service and is subsequently reinstated, that individual should be correspondingly reinstated to a position in the classified service.*

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal, since Appellant has not demonstrated that any cognizable harm has yet occurred regarding the reclassification of her position from Administrative Assistant 4 to Program Administrator 3, pursuant to R.C. 124.03, R.C. 124.14, and R.C. 124.328.



JAMES R. SPRAGUE
Administrative Law Judge

JRS: