

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Clark J. Nash,

Appellant,

v.

Case No. 11-RED-02-0032

Department of Transportation,

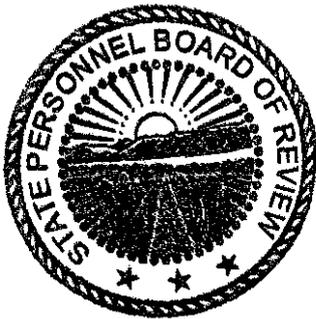
Appellee.

ORDER

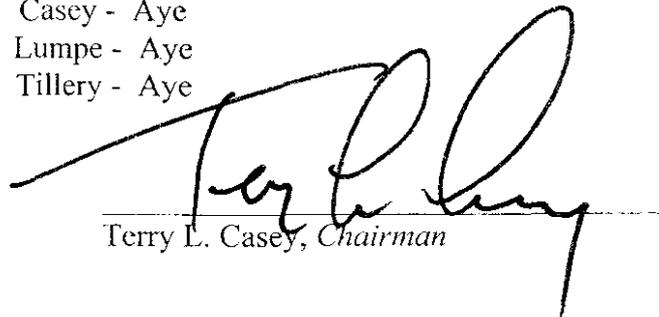
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 appeal be **DISMISSED** for lack of jurisdiction over the parties, pursuant to O.R.C. § 5501-20(D).



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 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, June 2, 2011.


Michelle Hussey
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**

Clark J. Nash,

Case No. 11-RED-02-0032

Appellant

v.

April 4, 2011

Department of Transportation,

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

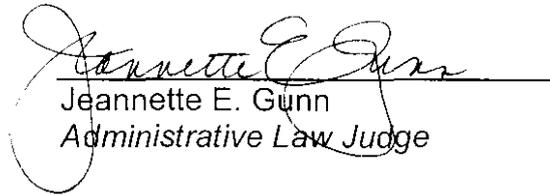
This matter came on for consideration pursuant to Appellee's Response to this Board's March 2, 2011, Procedural Order and Questionnaire, filed with this Board on March 18. Appellant filed a Reply on March 28, 2011, conceding that his position falls within Appellee's career professional service, but disputing Appellee's assertion that he was in a probationary period at the time of his demotion.

Uncontroverted evidence contained in the record indicates that Appellant was placed in a position classified as a Transportation Engineer 4 on November 21, 2010, and returned to his previous position, which was classified as a Transportation Engineer 3, effective January 30, 2011. Both the Transportation Engineer 4 and the Transportation Engineer 3 classifications fall within the career professional service of the Ohio Department of Transportation (see O.A.C. 5501-2-03).

Appellant indicated in his initial appeal that the subject of the appeal was his demotion from Transportation Engineer 4 to Transportation Engineer 3. 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. R.C. 5501.20(D) limits the authority of this Board to hear appeals from employees in the career professional service of the Ohio Department of Transportation to only those appeals which involve an employee's removal from employment. Appellant was not removed from employment and has not filed a removal appeal with this Board, therefore, I find that this Board has no authority to consider the instant matter.

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Accordingly, I respectfully **RECOMMEND** this appeal be **DISMISSED** for lack of jurisdiction over the parties.


Jeannette E. Gunn
Administrative Law Judge