

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

Anita D. Cash,

*Appellant.*

v.

Case No. 11-REM-01-0009

Greater Dayton Regional Transit Authority,

*Appellee.*

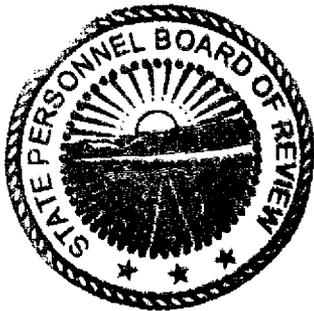
**ORDER**

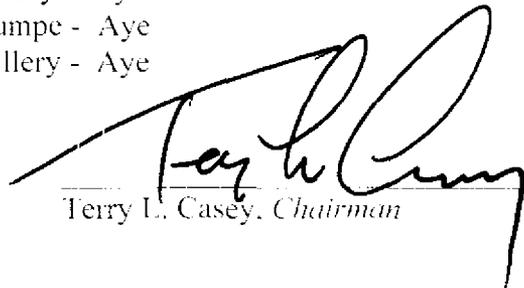
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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. §§ 124.01 and 124.03.

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, May 20, 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**

Anita D. Cash,

Case No. 11-REM-01-0009

*Appellant*

v.

April 4, 2011

Greater Dayton Regional Transit Authority,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter comes on for consideration upon Appellee's Response to this Board's February 4, 2011, Procedural Order and Motion to Dismiss, filed with the Board on March 14, 2011. Appellee alleges that this Board lacks jurisdiction to consider appeals brought by employees of a regional transit authority created pursuant to R.C. 306.30 *et seq.* Appellant filed no response to Appellee's Response and Motion.

**CONCLUSIONS OF LAW**

Unlike a court of general jurisdiction, this Board has only the jurisdiction granted to it by statute. Section 124.03 of the Ohio Revised Code limits this Board's jurisdiction to hearing appeals of employees in the classified state service. Section 124.01 of the Ohio Revised Code defines the following terms:

(A) "Civil service" includes all offices and positions of trust or employment in the service of the state and in the service of the counties, cities, city health districts, general health districts, and city school districts of the state.

(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state. "State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.

(C) "Classified service" means the competitive classified civil service of the state, the several counties, cities, city health districts, general health districts, and city school districts of the state, and civil service townships.

Appellee's employees do not fall within these definitions. R.C. 124.01 includes "... only specified political subdivisions within the definition of civil service, so that employment with all other political subdivisions, such as townships, local school districts, conservancy districts, court districts, and other political subdivisions, whether constituting more than one or only part of one county, are not included within the definition of civil service," see, *In re Appeal of Ford* (1982), 3 Ohio App.3d 416.

Further, this Board has consistently held that it does not have jurisdiction over regional entities, as their employees are not governed by a state or county appointing authority, but are instead generally governed by a board of trustees, as is Appellee. See, R.C. 306.33. Case law clearly indicates that the decisions of regional transit authorities to terminate employment are not subject to appeal under R.C. 124.34. *Atkinson v. Portage County, Portage Area RTA*, 2006-Ohio-4367; *Spitaleri v. Metro RTA* (1990), 67 Ohio App.2d 57.

Therefore, because Appellee's employees do not fall within the classified state services, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction over the parties.

  
Jeannette E. Gunn  
Administrative Law Judge