

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

JEFFREY A. JACKSON,

Appellant,

v.

Case No. 11-REM-03-0069

MONTGOMERY COUNTY BOARD OF COMMISSIONERS,

Appellee

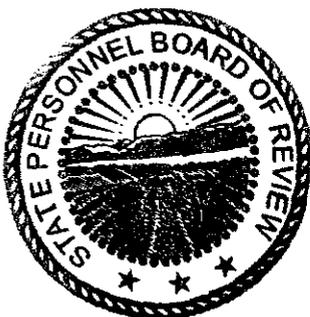
ORDER OF REMAND

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, the Board hereby REMANDS this matter for hearing for the reasons set forth, herein.

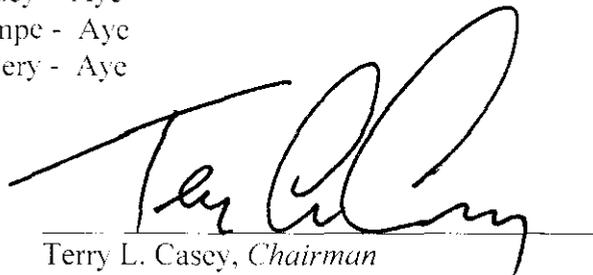
When Appellee served Appellant with her Order of Removal, Appellee utilized FedEx for delivery of same and for confirmation of that delivery. R.C. 124.34 provides for two methods of service of an R.C. 124.34 Order, personal service or certified U.S. Mail. Here, Appellee failed to utilize either of the two permitted methods of service and, so, has failed to comply with a statutory requirement for serving its Order of Removal. Accordingly, it can be argued that the timely filing requirements for this case are not those found in R.C. 124.34 but those found in O.A.C. 124-1-03 (I). That provision sets forth a 30-day time frame to file the appeal following notice of the action, which, in this case, was the removal of Appellant.

Because Appellant filed with this Board approximately 12 days following notice of her removal, her appeal would be timely filed under the provisions set forth in O.A.C. 124-1-03 (I). Thus, it appears Appellant's appeal is timely filed and, therefore, may proceed to hearing to build an administrative record consistent with the requirements set forth in R.C. Chapter 119.

Wherefore, it is hereby **ORDERED** that this matter be **REMANDED** to the assigned Administrative Law Judge, consistent with the reasons and instructions stated, herein.



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, July 26, 2011.

Michelle Hursey
Clerk