

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

SUZETTTE A. HALL,

Appellant,

v.

Case No. 11-REM-05-0125

HOCKING VALLEY COMMUNITY RESIDENTIAL CENTER,

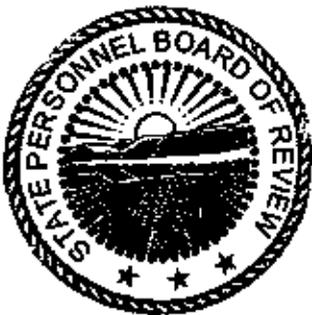
Appellee

ORDER

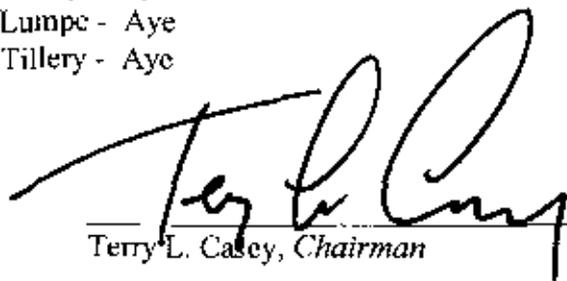
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 be **DISMISSED** for lack of jurisdiction over its subject, pursuant to R.C. 124.27.



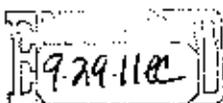
Casey - Aye
Lumpc - Aye
Tillery - Aye


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 29, 2011.




Clerk

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

SUZETTTE A. HALL,

Case No. 11-REM-05-0125

Appellant

v.

September 6, 2011

HOCKING VALLEY COMMUNITY RESIDENTIAL CENTER,

Appellee

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon this Board's August 12, 2011 issuance of a Procedural Order in this matter. By agreement of the parties and as set forth in the Procedural Order, Appellee was to file Appellee's motion to dismiss, memorandum in support, and accompanying pertinent documents with this Board and with Appellant on or before August 19, 2011. Thereafter, Appellant was to file her response to Appellee's motion to dismiss with this Board and with Appellee on or before September 2, 2011.

On August 18, 2011, Appellee timely filed its requisite motion to dismiss, which was properly supported as set forth in the Procedural Order. On September 2, 2011, Appellant timely filed her response to Appellee's motion to dismiss.

In its motion to dismiss, Appellee asserts that this Board lacks jurisdiction over the subject matter of Appellant's removal for three reasons. In her response, Appellant disputes these assertions, point by point.

First, Appellee asserts that Appellant's position fell within the unclassified service, because Appellant worked for a council of government (see R.C. Ch 167.) and also because Appellant worked for juvenile court judges (see R.C. 2151.13).

Secondly, Appellee asserts that Appellant was in a one-year probationary period and had yet to complete same at the time of her removal (see R.C. 124.27 and R.C. 124.14 (B)(4)).

Thirdly, Appellee asserts that Appellant's appeal was untimely filed because she did not file her appeal within 10 days of service of her R.C. 124.34 Order of Removal. (A question of fact remains as to whether Appellant received the second page of her R.C. 124.34 Order of Removal).

Based on the extant record, including Appellee's motion to dismiss and Appellant's response thereto, I find that Appellant was appointed as a Program Coordinator, on September 3, 2010. I further find that this classification has been assigned a one-year probationary period, which would not yet have expired on March 29, 2011, the effective date of Appellant's removal.

Additionally, I find that R.C. 124.27 divests this Board of jurisdiction over the probationary removal of a civil service employee.

Accordingly, the instant appeal should be dismissed because Appellant was removed during her probationary period, which places Appellant's removal outside of this Board's subject matter jurisdiction.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.27.


JAMES R. SPRAGUE
Administrative Law Judge