

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Anthony Kibogo

Appellant

v.

Case No. 11-REM-11-0349

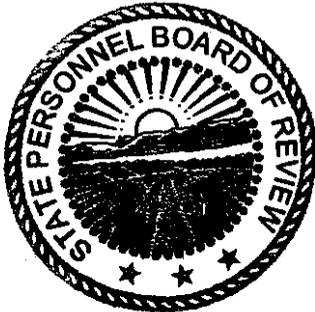
Auditor of State

Appellee

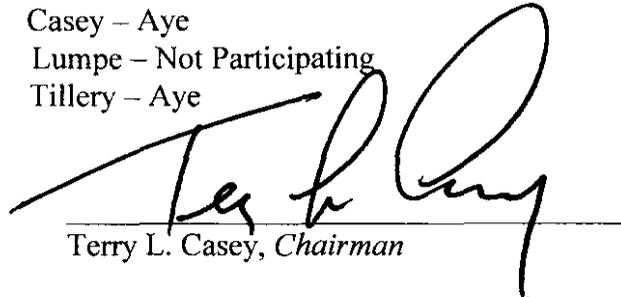
ORDER

This matter came on for consideration before the full Board. Based upon the reasoning set forth in the Board's Opinion attached hereto, the Board hereby disaffirms the Order of Removal.

Wherefore, it is hereby **ORDERED** that Appellant's removal be **DISAFFIRMED** for the reasons set forth in the Board's Opinion attached hereto.



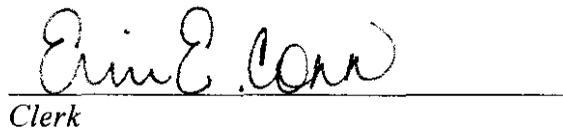
Casey – Aye
Lumpe – Not Participating
Tillery – Aye


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 the foregoing is ~~(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, December 01, 2011.


Erin E. Conner
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

Auditor of State,

Appellee

OPINION

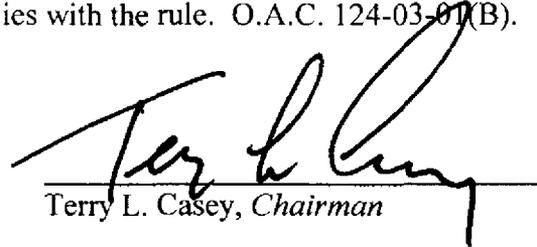
Appellant was removed pursuant to an R.C. 124.34 Order of Removal. However, the Order was defective in the following manner:

O.A.C. 124-03-01(A) requires that before an Order may be affirmed, the appointing authority must satisfy the following:

- (2) The employer shall serve the employee with a copy of the order *on or before the effective date of the action*; (emphasis added)

The appointing authority has failed to comply with O.A.C. 124-03-01(A)(2). This is because the Order was effective on October 21, 2011 but was not delivered to Appellant until October 24, 2011.

Therefore, the R.C. 124.34 Order of Removal is DISAFFIRMED. Disaffirmance of an R.C. 124.34 Order of Removal pursuant to O.A.C. 124-03-01(A) shall not be a bar to re-filing an Order, based upon the same incidents, which complies with the rule. O.A.C. 124-03-01(B).



Terry L. Casey, *Chairman*