

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

MARK J. BECHTOLD,

Appellant,

v.

Case No. 11-SUS-10-0343

DEPARTMENT OF TAXATION,

Appellee,

ORDER

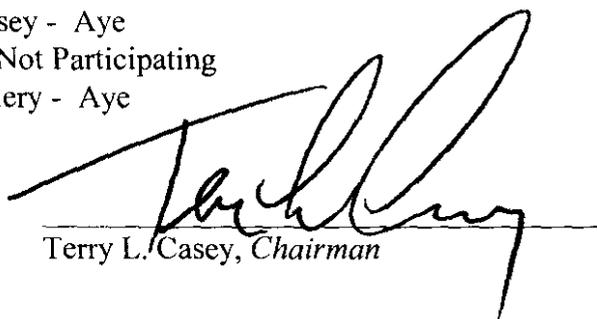
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 matter, pursuant to R.C. 124.03 and R.C. 124.34.



Casey - Aye
Lumpe - Not Participating
Tillery - Aye

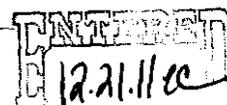

Terry L. Casey, *Chairman*

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 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, December 21, 2011.


Erin E. Conroy
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**

MARK J. BECHTOLD,

Case No. 11-SUS-10-0343

Appellant

v.

November 18, 2011

DEPT OF TAXATION,

JAMES R. SPRAGUE

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

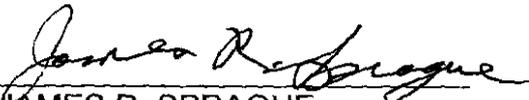
To the Honorable State Personnel Board of Review:

This matter came on for consideration on November 17, 2011 for Pre-Hearing. I find that Appellant has filed this appeal to protest his five-day (40-hour) non-working suspension.

Unlike a court, the State Personnel Board of Review has jurisdiction only where it has been explicitly conferred by the Ohio General Assembly. R.C. 124.03 and R.C. 124.34 combine to vest this Board with authority to hear appeals from suspensions of *greater than* 40 hours for employees who are FLSA overtime exempt.

The record reflects that Appellant's position of Tax Auditor Agent Manager 1 is FLSA overtime exempt. As such, Appellee was not required to provide Appellant with an R.C. 124.34 Order of Suspension regarding the instant suspension. Accordingly, this Board lacks jurisdiction to hear Appellant's instant appeal of his 40-hour suspension.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.03 and R.C. 124.34.



JAMES R. SPRAGUE
Administrative Law Judge