

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

Frank Rives,

Appellant,

v.

Case No. 11-WHB-01-0019

Cuyahoga County Board of Commissioners,

Appellee.

ORDER

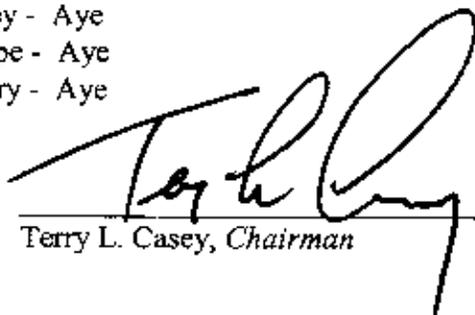
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** due to this Board's lack of jurisdiction, pursuant to Article IX section 9.02(1) of the Cuyahoga County Charter.



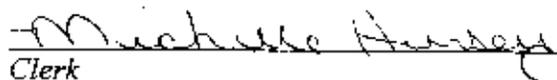
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, June 28, 2011.


Michelle Hunsley
Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

6-28-11 MH

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

Frank Rives

Case No. 11-WHB-01-0019

Appellant

v.

May 3, 2011

Cuyahoga County Board of Commissioners

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon the filing of a notice of appeal in the above captioned case. Appellant Rives notes on his notice of appeal form that he was an employee of Cuyahoga County and was removed from his position with the County effective January 7, 2011. Appellant Rives alleges that his removal was retaliatory in nature and hence, he filed a "whistleblower" appeal.

Cuyahoga County became a charter form of government with the passage of their Charter, effective January 1, 2010. Due to the transition provisions found in the Charter, the County Executive, who is the chief executive officer of the county, did not take office until January 1, 2011. (Article II, section 2.01 of the Charter). The County Executive, in turn, appointed members to the Human Resource Commission. (Article IX, section 9.01 of the Charter). As provided for in Article IX, section 9.02(1) of the Charter, the Human Resource Commission has:

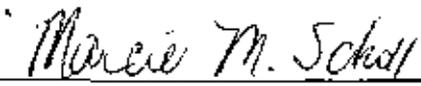
- (1) Responsibility for the resolution or disposition of all personnel matters, with authority to appoint hearing officers to hear all employee appeals previously under the jurisdiction of the State Personnel Board of Review. . .

Therefore, this Board no longer possesses jurisdiction over employees falling under the auspices of the Cuyahoga County Charter after January 1, 2011. Since Appellant Rives states that he was removed effective January 7, 2011, his appeal lies with the Human Resource Commission and not with the State Personnel Board of Review. This includes appeals wherein the Appellant is alleging "whistleblower"

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protection, as that is an appeal which, prior to the enactment of the Cuyahoga County Charter, this Board would have had jurisdiction; however, the Charter has divested this Board of jurisdiction over any type of appeal filed by employees falling under the Cuyahoga County Charter.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** due to this Board's lack of jurisdiction.



Marcie M. Scholl
Administrative Law Judge

:mms