

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Nancy S. Toliver,

Appellant

v.

Case No. 08-IDS-05-0206

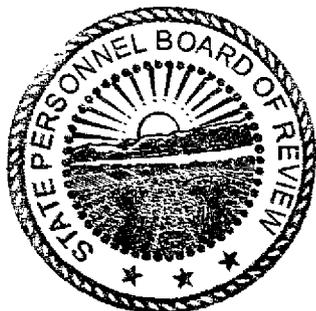
Montgomery County Board of Commissioners,

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 Involuntary Disability Separation.

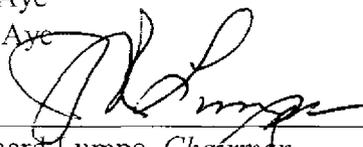
Wherefore, it is hereby **ORDERED** that Appellant's Involuntary Disability Separation be **DISAFFIRMED** for the reasons set forth in the Board's Opinion attached hereto.



Lumpe – Aye

Booth – Aye

Sfalcin – Aye

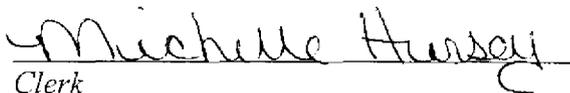


J. Richard Lumpe, *Chairman*

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 27, 2008.



Michelle Hursey
Clerk

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

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Montgomery County Board of Commissioners.

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OPINION

Appellant was involuntarily disability separated pursuant to an Order of Involuntary Disability Separation. However, the Order was defective in the following manner:

Ohio Administrative Code Section 124-03-01(A) (2) requires that before an Order may be affirmed, the appointing authority must satisfy the following:

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 Ohio Administrative Code Section 124-03-01(A)(2) because the appointing authority served Appellant with the pertinent Order after the effective date of the action.

Therefore, the Order of Involuntary Disability Separation is **DISAFFIRMED**. Disaffirmance of an Order of Involuntary Disability Separation under O.A.C. 124-03-01(A) shall not be a bar to refileing an Order, based upon the same incidents, which complies with the rule. O.A.C. 124-03-01(B).



J. Richard Lumpe, *Chairman*