

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

ARLENE WILLIAMS,

Appellant,

v.

Case No. 08-IDS-08-0493

DEPARTMENT OF REHABILITATION AND CORRECTION,
OHIO STATE PENITENTIARY,

Appellee

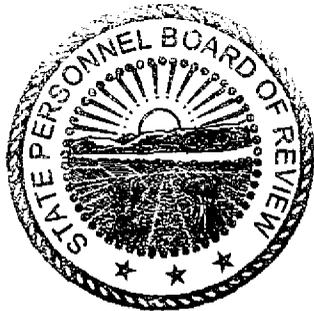
ORDER

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**, pursuant to R.C. 124.03.

Lumpe - Aye
Booth - Aye
Sfalcin - Aye



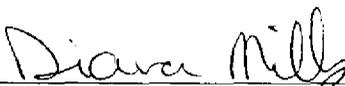


J. Richard Lumpe, *Chairman*

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 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 16, 2008.



Dianna Mills
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**

Arlene Williams

Case No. 08-IDS-08-0493

Appellant

v.

October 27, 2008

Department of Rehabilitation & Correction,
Ohio State Penitentiary

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on October 27, 2008, upon Appellant Williams' notice of appeal, filed on September 4, 2008. In her notice of appeal, Appellant Williams states she has been off on workers compensation since April 2, 2008. She states that at her last visit with her physician, her current return to work date is November 7, 2008.

Based upon the above information, supplied by Appellant Williams, I find that by her own admission, Appellant Williams was not able to perform the essential duties of her position of a Health Information Tech 1 as of the effective date of the involuntary disability separation, August 25, 2008. If this Board were to hold a hearing pursuant to Appellant Williams' appeal, then Appellant Williams would have to present evidence that she was ready, willing and able to work as of the effective date of the involuntary disability separation, August 25, 2008. Since Appellant Williams has been receiving workers compensation benefits and stated in her appeal that she will not be released to return to work until November 7, 2008, it is highly unlikely that Appellant Williams could present evidence to this Board that she was able to work as of August 25, 2008. To do so, she would be telling this Board that she was able to perform the essential duties of her position at the same time that she was receiving workers compensation benefits based on her inability to work during that time period.

Arlene Williams
Case No. 08-IDS-08-0493
Page 2

Appellant Williams has until April 1, 2010 to request reinstatement to her position. Therefore, at the time that her physician does release her to work, Appellant Williams should apply for reinstatement to her position. If she is denied reinstatement, she would, at that point, have a right to appeal the denial of reinstatement to this Board.

Therefore, since evidence has been presented to this Board that Appellant Williams, by her own admission, could not perform the essential duties of her position as of the effective date of the involuntary disability separation, August 25, 2008, it is my **RECOMMENDATION** that this appeal be **DISMISSED**.



Marcie M. Scholl
Administrative Law Judge

:mms