

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

Debra A. Coleman-Eads,

Appellant,

v.

Case No. 08-MIS-01-0016

Cuyahoga County Board of Commissioners,

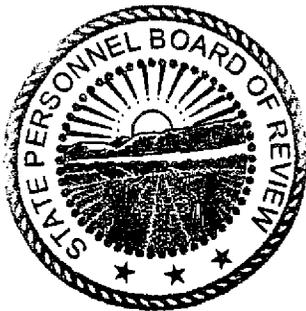
Appellee.

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 Appellant filing prematurely and for lack of subject matter jurisdiction, pursuant to O.R.C. §§ 124.03 and 124.14(D)(2).



Lumpe – Aye

Booth – Aye

Sfalcin – Aye

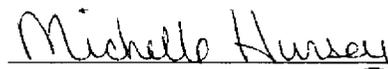


J. Richard Lumpe, *Chairman*

CERTIFICATION

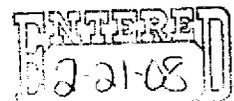
The State of Ohio, State Personnel Board of Review, ss:

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, February 21, 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.



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

Debra A. Coleman-Eads,

Case No. 08-MIS-01-0016

Appellant

v.

January 24, 2008

Cuyahoga Co., Board Of Commissioners,

Christopher R. Young

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on January 24, 2008, upon Appellant's filing of her appeal to this Board on January 10, 2008, contesting that she is working outside of her job classification. Further, I find that the Appellant has filed this miscellaneous appeal to protest that action.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions of more than three days, removals, reductions, layoffs, abolishments and assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under division (D) of section 124.14 of the Revised Code.

Ohio Revised Code section 124.14 (D)(2) states in pertinent part:

* * * * *

(2) Upon the request of any classified employee who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The

director shall give to the employee affected and to the employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant.

* * * * *

Thus, after a plain and simple reading of this Board's enabling statute, along with Ohio Revised Code section 124.14 (D)(2), **an employee must first request that a job audit be conducted prior to having this Board review whether that employee is working outside of their job classification or not.** Thus, the Appellant's request, at this time, is premature for this Board to consider.

Further, the Appellant in this matter should first request from her employer and/or the Cuyahoga County's Department of Human Resources, to have her job duties audited, and after having receiving their recommendation, at that time, file an appeal to this Board, if she should so desire.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the Appellant's appeal be **DISMISSED** for being filed prematurely, and for lack of subject matter jurisdiction.


Christopher R. Young
Administrative Law Judge

CRY: