

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

Cathleen A. Cornish,

Appellant,

v.

Case No. 08-MIS-05-0222

Department of Rehabilitation and Correction Central Office,

Appellee.

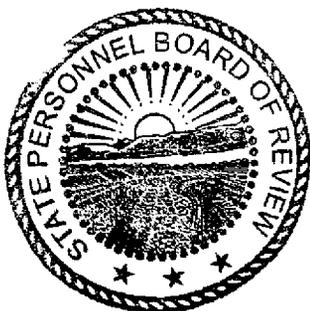
ORDER

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** for lack of subject matter jurisdiction, pursuant to O.R.C. § 124.03.

Lumpe - Aye
Booth - Aye
Sfalcin - Aye



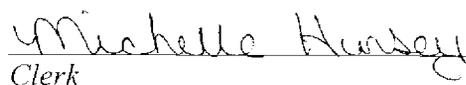


J. Richard Lumpe, *Chairman*

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 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, July 25, 2008.



Michelle Hunsey
Clerk

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

FILED
07-25-08

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

Cathleen A. Cornish,

Case No. 08-MIS-05-0222

Appellant

v.

June 25, 2008

Dept Of Rehab & Corr,
Central Office,

Appellee

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's May 19, 2008, filing of an appeal wanting this Board to explain to her the intent of House Bill 187. After reviewing Appellant's appeal, it appears that Appellant, in essence, requests this Board to issue a declaratory judgment outlining the intent of House Bill 187, without having a justiciable issue in front of it to consider the same at the present time.

The State Personnel Board of Review shall exercise the following powers and perform the following duties pursuant to O.R.C. section 124.03(A):

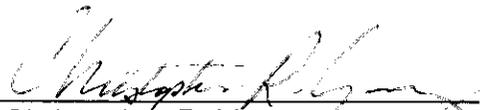
- (1) **Hear appeals**, as provided by law, of employees in the classified state service **from final decisions of appointing authorities** or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, assignment or reassignment 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.

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 and abolishments. Appellants

seeking a declaratory are not appealable to the State Personnel Board of Review, pursuant to Ohio Revised Code Section 124.03. Only suspensions in excess of three days are appealable, see *Gillard v. Norris* (1988), 857 F.2d 1095; *Rapier v. Darke County Board of Mental Retardation and Developmental Disabilities* (Mar. 10, 1993), Franklin Co., No. 92-CV-09-7589, unreported. Accordingly, I find that this Board lacks jurisdiction to proceed with the Appellant's request for a declaratory judgment action.

While it is often true that when an Appellant seeks to invoke the jurisdiction of this Board, it is often necessary to determine the impact of newly enacted laws. Yet, such a determination must be precipitated by an adverse personnel action, such as a removal or reduction. Indeed, under R.C. 124.03, the State Personnel Board of Review does not have the authority to issue declaratory judgments determining the impact of newly enacted laws. Likewise, there is no other statute in R.C. Chapter 124. which invests such jurisdiction in the State Personnel Board of Review.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** this appeal for lack of subject matter jurisdiction.


Christopher R. Young
Administrative Law Judge

CRY: