

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

Cynthia F. Landry,

Appellant,

v.

Case No. 08-RED-05-0220

Montgomery County Board of Commissioners,

Appellee.

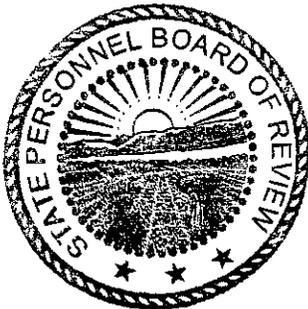
ORDER

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** for lack of jurisdiction, pursuant to O.A.C. § 124-1-03(E).

Lumpe - Aye
Booth - Aye
Sfalcin - Aye



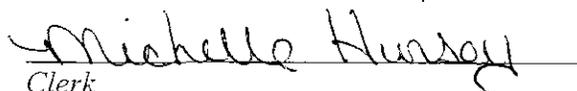


J. Richard Lumpe, *Chairman*

CERTIFICATION

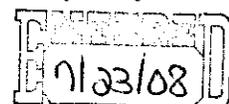
The State of Ohio, State Personnel Board of Review, ss:

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 23, 2008.



Michelle Hunsay
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**

Cynthia F. Landry,

Case No. 08-RED-05-0220

Appellant

v.

June 23, 2008

Montgomery County Board of Commissioners,

Elaine K. Stevenson
Hearing Officer

Appellee

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration due to Appellant's May 14, 2008 filing of a notice of appeal from an alleged reduction in pay and/or position. There was no R.C. 124.34 disciplinary order filed in this case.

O.A.C. 124-1-02(Y) defines a "reduction in pay" as follows:

. . . [A]n action which diminishes an employee's
pay . . .

O.A.C. 124-1-02(Z) defines a "reduction in position" as follows:

. . . [A]n action which diminishes an employee's
duties or responsibilities to the extent an audit of
the employee's position would result in a
reclassification to a classification assigned a
lower pay range.

O.A.C. 124-1-03(E) provides that:

Appeals from alleged reductions in pay or
position which do not involve a "section 124.34
order" shall be filed with the board, in writing,
within ninety days after receipt of notice of the
reduction or if no notice is given, within ninety
days of the actual imposition of the reduction.

* * * *

Initially, I note that this Board does not have the authority to review Appellee's pay bands or any decisions regarding the pay bands assigned to Appellee's job classifications and to coworkers' positions.

With regard to an alleged reduction in pay, I note that Appellant received written notice of a pay *increase* via a letter dated March 12, 2008. I find that Appellant has not suffered a reduction in pay, as the information contained in the record clearly establishes that Appellant received a rate increase of 3%, retroactive to January 1, 2008.

With regard to an alleged reduction in position, I note that the information contained in the record indicates that no R.C. 124.34 disciplinary order or any type of written notice was issued to Appellant regarding an alleged reduction in position. However, in her notice of appeal, Appellant clearly states that, "During the month of December 2007, my duties as 'Personnel Officer' were diminished, without a performance appraisal, or written communication detailing my specified duties." Appellant also notes that she was not given an updated position description detailing her duties. Based on the uncontroverted information contained in the record, I find that the actual imposition of the alleged reduction in position occurred in December 2007. Therefore, Appellant had ninety days from the last day of December 2007 to file her appeal from her alleged reduction in position. Appellant filed her appeal on May 14, 2008. Pursuant to O.A.C. 124-1-03(E), Appellant's appeal is untimely filed.

Based on the foregoing, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction, pursuant to O.A.C. 124-1-03(E).


Elaine K. Stevenson
Hearing Officer

EKS:/