

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Torence Doster,

Appellant,

v.

Case No. 08-REM-01-0019

Monroe Township,

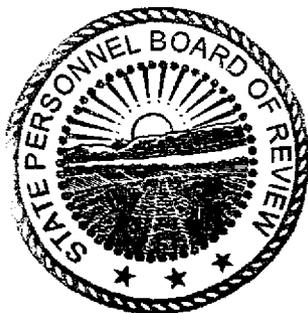
Appellee.

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. §§ 124-01(A)(B), and (C), and O.R.C. §§ 124.03 and 124.34.



Lumpe – Aye
Booth – Aye
Sfalcin – Aye

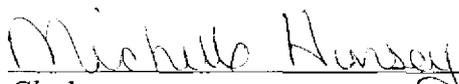


J. Richard Lumpe, *Chairman*

CERTIFICATION

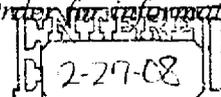
The State of Ohio, State Personnel Board of Review, ss:

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 27, 2008.



Michelle Hursay
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**

Torence Doster,

Case No. 08-REM-01-0019

Appellant

v.

February 5, 2008

Monroe Township,

Elaine K. Stevenson

Appellee

Hearing Officer

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's January 11, 2008 filing of a notice of appeal of his removal from employment with Appellee, Monroe Township.

The State Personnel Board of Review handles matters pertaining to the civil service system of the State of Ohio. Unlike a court, however, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. O.R.C. §§ 124.03 and 124.34 grant this Board authority to hear appeals of employees in the classified state service relative to specific actions, including suspensions of more than three days, reductions in pay or position, job abolishments and layoffs, and removals.

O.R.C. § 124.01 provides as follows:

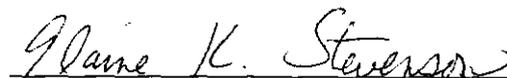
(A) "Civil service" includes all offices and positions of trust or employment in the service of the state and in the service of the counties, cities, city health districts, general health districts, and city school districts of the state.

(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state. "State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.

(C) "Classified service" means the competitive classified civil service of the state, the several counties, cities, city health districts, general health districts, and city school districts of the state, and civil service townships.

In the instant case, Appellant appeals his removal from his position with Appellee, Monroe Township. As can be seen from reading the above-definitions, townships are not included within the definition of civil service. Therefore, employment with a township or with any other political subdivision not specified within the above-definition of civil service is not considered civil service subject to the provisions of Chapter 124. of the Ohio Revised Code. Although townships are not one of the political subdivisions specifically excluded by O.R.C. § 124.01, it is important to note that the exclusions contained in O.R.C. § 124.01 are not exhaustive as there are many political subdivisions within the State of Ohio not referenced in O.R.C. § 124.01, such as villages, conservancy districts, and sanitary districts. In addition to the above-mentioned Ohio Revised Code sections, I note that O.R.C. § 511.10 provides townships with the authority to hire and discharge: "The board of township trustees may appoint such superintendents, architects, clerks, laborers, and other employees as are necessary and fix their compensation. Any person so appointed may be removed by a majority of the members of such board at any time." In considering the relevant Ohio Revised Code sections cited above and case law, it appears that Appellee's action removing Appellant from employment, while not within this Board's jurisdiction, *may* be subject to review by a pertinent court of common pleas pursuant to O.R.C. § 2506.04. See, *In re Ford v. Newton Twp. Bd. of Trustees*, 2006-Ohio-6530.

Based on the foregoing, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of subject matter jurisdiction, pursuant to O.R.C. §§ 124.01 (A), (B), and (C), and O.R.C. §§ 124.03 and 124.34.


Elaine K. Stevenson
Hearing Officer

EKS:/