

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

Laura L. Jones,

Appellant.

v.

Case No. 09-IDS-12-0526

Department of Rehabilitation and Correction,
London Correctional Institution,

Appellee.

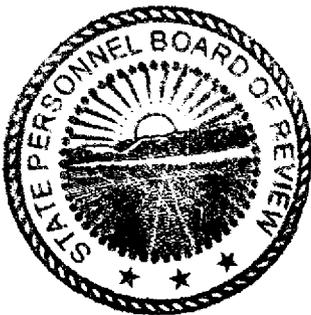
ORDER

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** since Appellant provided documentation that she could not perform the essential duties of her position as of December 10, 2009, there is no justiciable issue before this Board.

Lumpe - Aye
Sfalcin - Aye
Tillery - Not Participating



Adriana Sfalcin

Adriana Sfalcin, *Vice 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, June 8, 2010.

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**

Laura L. Jones

Case No. 09-IDS-12-0526

Appellant

v.

March 5, 2010

Department of Rehabilitation & Correction,
London Correctional Institution

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

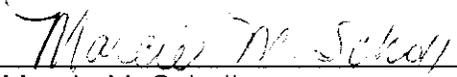
This cause comes on for consideration upon Appellant Jones' notice of appeal, filed on December 21, 2009. From the documents attached to the notice of appeal, Appellant Jones was placed on involuntary disability separation effective December 10, 2009. She states in her notice that her doctor of record "has recommended my return to work date be January 15, 2010." Also attached to her notice of appeal, is a letter from her doctor, Dr. James J. Appell, which confirms the date of January 15, 2010 as a return to work date.

If a hearing regarding the involuntary disability separation of Appellant Jones were to be conducted before this Board, Appellant Jones would have to show that as of the effective date of her involuntary disability separation, December 10, 2009, she was able to perform the essential duties of her position of Correctional Program Specialist. Inasmuch as Appellant Jones submitted a letter from her doctor stating she is not released to return to work until January 15, 2010, it is highly unlikely that she could argue she was able to perform her essential job duties as of December 10, 2009.

Appellant Jones has a right to reinstatement until January 13, 2011. If she receives a release from her doctor to return to work prior to that date, then she can apply for reinstatement. If she were to be denied reinstatement by the Appellee, she would then have a right to appeal that denial to this Board.

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Therefore, since Appellant Jones provided documentation that she could not perform the essential duties of her position as of December 10, 2009, there is no justiciable issue before this Board and it is my **RECOMMENDATION** that this appeal be **DISMISSED**.



Marcie M. Scholl
Administrative Law Judge

:mms