

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

Susan E. Burbidge,

Appellant,

v.

Case No. 09-LAY-03-0137

Hamilton County Board of Commissioners,

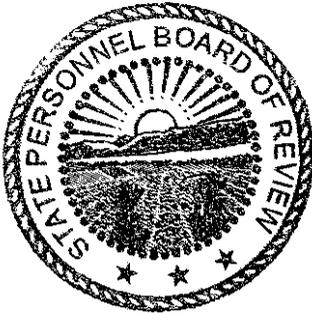
Appellee.

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.R.C. § 124.328 and O.A.C. § 124-1-03(B).



Lumpe - Aye
Sfalcin - Aye
Tillery - Aye

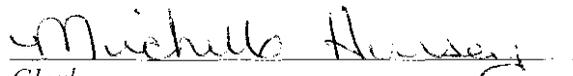


J. Richard Lumpe, *Chairman*

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 30, 2009.



Michelle Husey
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**

Susan E. Burbidge,

Case No. 09-LAY-03-0137

Appellant

v.

June 2, 2009

Hamilton 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 on June 2, 2009, upon a review of Appellant's notice of appeal of her layoff, which was postmarked March 7, 2009 and filed with this Board on March 9, 2009. In her notice of appeal, Appellant indicates that she received her notice of layoff from Appellee on February 13, 2009.

Ohio Revised Code Section 124.328 and Ohio Administrative Code Section 124-1-03(B) require that an appeal from a layoff or displacement be filed or postmarked no later than ten (10) calendar days after receipt of the layoff notice. In the present case, Appellant's appeal was postmarked twenty-two calendar days after she received her layoff notice and Appellant filed her appeal with this Board twenty-four calendar days after she received her layoff notice. Accordingly, I find that the Board is without jurisdiction to hear this appeal because the appeal was not timely filed.

Because this Board is without jurisdiction to hear this appeal, this Board's April 15, 2009 Procedural Order is no longer valid in this case. Therefore, the prehearing and record hearing dates and the instructions set forth in this Board's April 15, 2009 Procedural Order are hereby **VACATED** in the appeal of *Susan E. Burbidge v. Hamilton County Board of Commissioners* (SPBR Case No. 09-LAY-03-0137).

Based on the foregoing, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction, pursuant to Ohio Revised Code Section 124.328 and Ohio Administrative Code Section 124-1-03(B).


Elaine K. Stevenson
Hearing Officer

EKS:/