

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Frank M. Tempesta,

Case Nos. 09-LAY-07-0322
09-LAY-07-0327

Appellant,

v.

City of Warren,

Appellee.

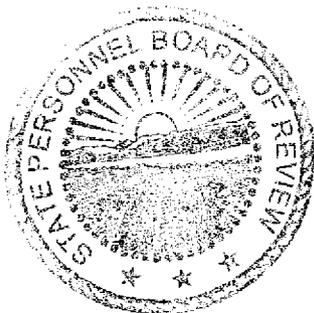
ORDER

This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 appeals be **DISMISSED** for lack of jurisdiction, pursuant to O.R.C. § 124.03.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye

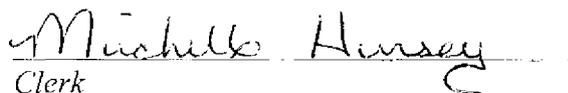



J. Richard Lumpe, *Chairman*

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, November 6, 2009.


Michelle Hursey
Clerk

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

11-6-09

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

Frank M. Tempesta

Appellant

v.

City of Warren

Appellee

Case Nos. 09-LAY-07-0322
09-LAY-07-0327

September 18, 2009

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on September 18, 2009. Appellant appeals his layoff from the city of Warren.

R.C. Section 124.03(A) provides that this Board shall hear appeals of employees in the classified state service. R.C. Section 124.01(B) defines "state service" as follows:

* * *

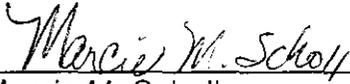
(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state. **"State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.** (Emphasis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

* * *

Clearly, a municipal employee is not covered by the definitions set forth above. Therefore, this Board lacks jurisdiction to hear a direct appeal arising from the layoff of a municipal employee.

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Therefore, I **RECOMMEND** that these cases be **DISMISSED** for lack of jurisdiction pursuant to section 124.03 of the Ohio Revised Code.



Marcie M. Scholl
Administrative Law Judge

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