

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

Maria Silvestri,

*Appellant,*

v.

Case No. 09-REM-04-0190

Ohio State University,

*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. § 4117.10(A).

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, September 13, 2009.

  
\_\_\_\_\_  
*Michelle Hunsberger*  
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**

Maria Silvestri,

Case No. 09-REM-04-0190

*Appellant*

v.

July 23, 2009

Ohio State University,

Christopher R. Young

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

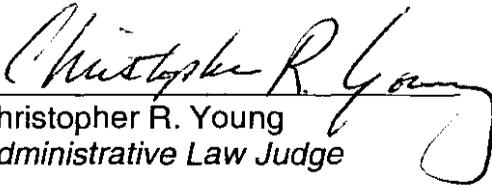
This matter came on for consideration on July 23, 2009, upon Appellee's response to a previously issued Procedural Order and Questionnaire filed with this Board on July 6, 2009. The Appellee contends that the Appellant was a member of a collective bargaining unit and this matter is properly resolved through the grievance procedure pursuant to a collective bargaining agreement and this Board lacks jurisdiction to consider the matter. The Appellant did not file a response to the Appellee's assertions that she is in a collective bargaining unit.

I find that the Appellant is classified as a Staff nurse. The Staff nurse classification is included in a bargaining unit which is represented by The Ohio Nurses Association. The Appellee, The Ohio State University and The Ohio Nurses Association have signed a collective bargaining contract, which covers the Appellant's bargaining unit.

The above contract provides a grievance procedure resulting in final and binding arbitration. The Appellant was removed from employment; this action is covered by the contract grievance procedures. Ohio Revised Code Section 4117.10(A) states that where a bargaining agreement provides a grievance procedure which culminates in final and binding arbitration, which the attached collective bargaining contracts states, the State Personnel Board of Review has no jurisdiction. This Board is, therefore, without jurisdiction to hear the instant appeal.

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Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of jurisdiction.

  
Christopher R. Young  
Administrative Law Judge

CRY: