

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Amy A. Hernan,
Appellant,

v.

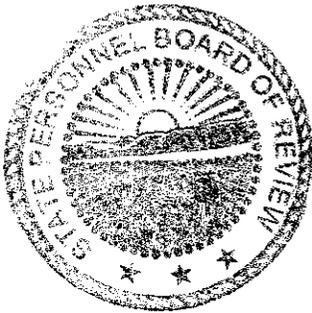
Case No. 09-REM-06-0297

Ohio State University,
Appellee.

ORDER

This matter came on for consideration on the motion of Appellee that the Rescission attached hereto be adopted. Being fully advised in the premises, the Board hereby orders that the attached rescission, incorporated herein by reference and made a part of the case file in this appeal, be **ADOPTED**, and that Appellant's appeal be **DISMISSED**.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



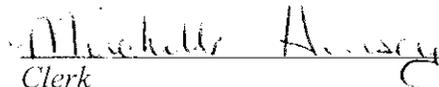


J. Richard Lumpe, *Chairman*

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 constitutes (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 18, 2009.



Clerk

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

9-18-09 mlh

224

BEFORE THE STATE PERSONNEL BOARD OF REVIEW

AMY A. HERNAN,	:	
	:	
Appellant,	:	CASE NO. 09-RFM-06-0297
	:	
v.	:	
	:	
THE OHIO STATE UNIVERSITY,	:	
	:	
Appellee.	:	

2009 JUN 9 PM 0:57
 STATE PERSONNEL BOARD

NOTICE OF RESCISSION OF ORIGINAL 124.34 ORDER, REISSUANCE OF NEW 124.34 ORDER, AND PAYMENT OF INTERIM BACKPAY

Appellee, The Ohio State University (“OSU”), hereby notifies the Board that it has rescinded the “Order of Removal, Reduction, Suspension, Fine, Involuntary Disability Separation” (hereinafter “124.34 Order”) that gave rise to the present appeal. The rescission was effected by way of a 124.34 Order with an amended termination date of August 8, 2009. (See Exhibit A, attached). The second 124.34 order was served on Appellant, Amy A. Hernan, on August 4, 2009, prior to the effective date. (See United States Postal Service tracking report and Ms. Hernan’s “green card” signature, attached as Exhibits B and C).

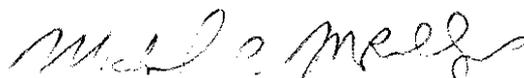
The original 124.34 Order purporting to remove Ms. Hernan from her position contained an effective date of May 26, 2009. As a result of the rescission of the first 124.34 Order and issuance of the amended 124.34 Order, OSU has compensated Ms. Hernan for back pay for the period from May 26, 2009 through August 8, 2009, as well as accrued vacation leave for that time period. Attached as Exhibit D is a copy of the check mailed to Ms. Hernan on August 18, 2009.

INTERIM
8/18/09

Because the 124.34 Order that gave rise to the present appeal has been rescinded, OSU respectfully requests that the Board dismiss this appeal.

Respectfully submitted,

RICHARD CORDRAY
Ohio Attorney General



MICHAEL C. MCPHILLIPS (0065329)
Assistant Attorney General
Employment Law Section
30 East Broad Street, 23rd Floor
Columbus, Ohio 43215
(614) 644-7257 – Telephone
(614) 752-4677 – Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing *Notice of Rescission of Original 124.34 Order, Reissuance of New 124.34 Order, and Payment of Interim Backpay* was served upon Amy A. Hernan, 2711 Collinford Drive, Apt. H, Dublin, Ohio 43016, by certified mail, this 18th day of August, 2009.



MICHAEL C. MCPHILLIPS (0065329)
Assistant Attorney General

Amended Termination Date

State of Ohio
Department of Administrative Services

**Order of Removal, Reduction, Suspension,
Fine, Involuntary Disability Separation**

Ms. Amy Hernan:

This will notify you that you are; removed; suspended; suspended (working); fined; involuntary disability separated; voluntary disability separation; reduced in pay, from your position of Account Clerk 3 effective Saturday, August 8, 2009.

The reason for this action is that you have been guilty of (List relevant R.C. 124.34 disciplinary offense(s)).
(Section not applicable for involuntary disability separation.)

Specifically:

Dishonesty and/or failure of good behavior:

You provided false information on your Employment Application and Police Record Disclosure Forms.

Notice of pre-disciplinary/separation hearing given to employee: Tuesday, May 12, 2009

Pre-disciplinary/separation hearing held or waived: Tuesday, May 19, 2009

Employee allowed to meet with employer: Yes No

Order hand-delivered to employee: not applicable

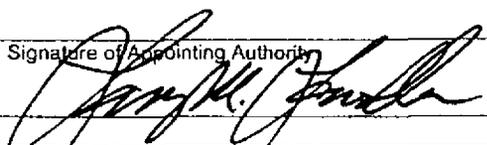
If employee is suspended list dates of suspension:

Signed at Columbus, Ohio,
Date July 29, 2009

Counter signature, if applicable

Counter signature, if applicable

Counter signature, if applicable

Signature of Appointing Authority


Type, Name and Title of Appointing Authority
Larry M. Lewellen, Vice President

Type Department, Agency, or Institution
The Ohio State University, Office of Human Resources

**APPELLEE'S
EXHIBIT**

A

IMPORTANT INSTRUCTIONS TO THE APPOINTING AUTHORITY

(1) Actual signature means that each of the four copies must contain the actual signature of the Appointing Authority. Appointing Authority means the actual appointing officer of the department or agency as well as any approving officer or board required by law. If the appointment of an employee requires the approval of a board or commission, then a certified copy of the resolution of such board or commission approving the action must accompany this Order unless the actual signatures of the members of the board or commission appear on the front of this Order.

(2) The Appointing Authority must set forth in detail the particular acts and circumstances constituting the offense(s) charged. Evidence presented on appeal must be limited to that which relates to the charge(s) made; hence the Appointing Authority must set forth the charge(s) broad enough to encompass all the evidence the Appointing Authority intends to offer. It is equally important that the Appointing Authority fully state the ground(s) for the action.

(3) The Appointing Authority **MUST** provide the appropriate copy of the Order to the employee on or before the effective date and **MUST** provide the State Personnel Board of Review (SPBR) and the Director of Administrative Services (DAS) with appropriate copies of the Order within 10 calendar days of serving the employee with the order. The date on which this Order is served is the date the Order is delivered to the employee by hand or to the employee's last known mailing address by certified United States mail, whichever occurs first.

Example of deadline to file Order with SPBR and DAS:

An Appointing Authority serves the employee with a copy of a five-day suspension order on October 8. The Appointing Authority has until October 18 to file copies with SPBR and DAS (ten days from the date the employee was served with the Order).

Service of Order:

Department of Administrative Services' Copy
Appointing Authority's Copy
Employee's Copy
State Personnel Board of Review's Copy

IMPORTANT INSTRUCTIONS TO THE EMPLOYEE

If you wish to appeal this action, then you must file your written appeal with the State Personnel Board of Review (SPBR) at 65 East State Street, 12 th Floor, Columbus, Ohio 43215-4213. **Your appeal must actually be received and time-stamped by SPBR by the tenth calendar day from the date this Order was served.** For the purposes of your appeal, the date on which this Order is served is the date the Order is delivered to you by hand or to your last known mailing address, as maintained by your Appointing Authority, by certified United States mail, whichever occurs first. You may obtain SPBR's Administrative Rules by writing the above office or by telephoning SPBR at (614) 466-7046. You may also obtain the rules via the Internet at <http://www.state.oh.us/spbr/>.

Example of deadline to file appeal:

An employee is given a five-day suspension. The suspension is to begin on October 11 and run five working days through October 15. The employee is served with a copy of the forthcoming suspension order on October 8. The employee has until October 18 to file a written appeal (ten days from the date the employee was served with the Order).

Reminder: Suspensions of three working days or less, or fines of three days' pay or less, are not appealable to SPBR. If you are employed by a municipality or township that has a civil service commission, your appeal lies with that commission and not SPBR.

USPS Homepage

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Track & Confirm

Search Results

Label/Receipt Number: **7008 1300 0002 0293 0582**
 Class: **First-Class Mail®**
 Service(s): **Certified Mail™**
 Return Receipt
 Status: **Delivered**

Your item was delivered at 10:47 AM on August 4, 2009 in DUBLIN, OH 43016.

Detailed Results:

Delivered, August 04, 2009, 10:47 am, DUBLIN, OH 43016
Acceptance, August 03, 2009, 4:39 pm, COLUMBUS, OH 43216

Notification

Track & Confirm by email
 Get current event information or updates for your item sent to you or others by email.

Enter Label/Receipt Number.

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 No FEAR Act EEO Data
 FOIA



**APPELLEE'S
EXHIBIT**

B

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Amy A. Hernan
████████ Collinford Drive
Apartment ██████████
Dublin, OH 43016-8653

2. Article Number

(Transfer from service label)

7008 1300 0002 0293 0582

PS Form 3811, February 2004

Domestic Return Receipt

102585-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Amy A. Hernan* Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

**APPELLEE'S
EXHIBIT**

C



Fifth Third Bank

56-0216/0440

Check No.
1961498

Date: 08/13/2009

Pay Amount: \$4,244.26 *****

Pay *****FOUR THOUSAND TWO HUNDRED FORTY-FOUR AND 26/100 DOLLARS*****

To The
Order Of

AMY ANNE HERNAN
Collinford Dr
Dublin, OH 43016
Location: Recreation & Phys Activ Ctr

William J. Schubert

⑈ 1961498 ⑈

**APPELLEE'S
EXHIBIT**

D