

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

James L. Dent,

*Appellant,*

v.

Case No. 09-REM-12-0510

Department of Youth Services,  
Cuyahoga Hills Boys School,

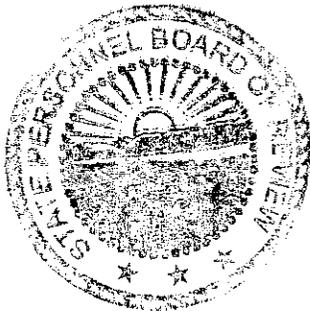
*Appellee.*

**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 subject matter jurisdiction, pursuant to O.R.C. §§ 124.03 and 124.27 (C).



Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

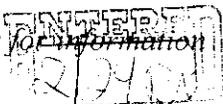
  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

**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, Feb 24, 2010.

  
\_\_\_\_\_  
Diana Mills  
*Clerk*

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

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

James L. Dent,

Case No. 09-REM-12-0510

*Appellant,*

v.

January 22, 2010

Dept of Youth Services,  
Cuyahoga Hills Boys School,

*Appellee*

BETH A. JEWELL  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

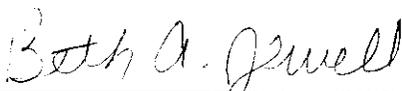
This cause comes on for consideration on January 22, 2010, upon Appellee's January 6, 2010 Response to Procedural Order and Motion to Dismiss. Under Ohio Adm. Code Rules 124-11-07 and 124-11-13, Appellant's responses to the Procedural Order and Motion to Dismiss were to be filed and served not later than January 20, 2010. No responses have been filed.

Citing Ohio Revised Code §§ 124.03 and 124.27(C), Appellee asserts in its motion to dismiss that this Board lacks jurisdiction over this appeal because Appellant was a probationary employee when he was removed. Appellee cites the Affidavit of Philip W. Paar, attached to its motion to dismiss. Mr. Paar avers that as a Labor Relations Officer employed by Appellee, he is familiar with Appellant's employment with Appellee. Mr. Paar further avers that Appellant began his employment with Appellee on October 14, 2008, as a Juvenile Correction Officer.

Appellant was to serve a 365-day probationary period, set to end on October 14, 2009. By mutual agreement of Appellee and the Ohio Civil Service Employees Association (OCSEA/AFSCME), Appellant's probationary period was extended through December 2, 2009, because Appellant had missed many days of work and had been in the Transitional Work Program because of an injury. On November 9, 2009, Appellee removed Appellant from his probationary position because he did not adequately discharge the duties of the position. Appellee did not issue an § 124.34 Order because Appellant was still a probationary employee when he was removed.

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Appellee has put forth uncontroverted evidence sufficient to prove that it lawfully removed Appellant as a probationary employee. Appellant does not have appeal rights to this Board as he was still a probationary employee at the time of his removal. Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of subject matter jurisdiction.

  
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BETH A. JEWELL  
*Administrative Law Judge*

BAJ: