

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Kenneth E. Kanagy,

*Appellant,*

v.

Case No. 09-SUS-02-0080

Crawford County Board of Commissioners,

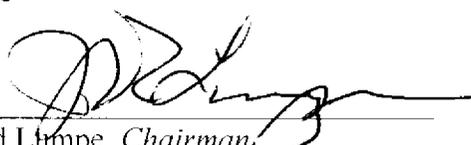
*Appellee.*

**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 17, 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.

**JOURNAL ENTRY**  
THIS STAMP IS IN RED INK

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

STATE PERSONNEL  
BOARD OF REVIEW

Kenneth E. Kanagy :  
Appellant :

2009 AUG 24 PM 3: 13

v. :

Case No. 09-SUS-02-0080

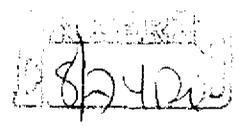
Crawford County Board :  
of Commissioners :  
Appellee :

ALJ James R. Sprague

**APPELLEE'S MOTION TO DISMISS**

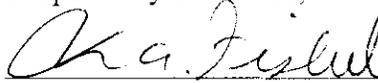
Now comes Appellee, Crawford County Board of Commissioners and requests that this Board dismiss the instant appeal. Specifically, this Motion is based on the fact that the Appointing Authority has rescinded the ten day suspension given to Appellant in this matter. A certified copy of the Resolution rescinding the suspension is attached hereto.

After an investigation and an opportunity for a pre-disciplinary conference, Appellant was given a ten day suspension by the Crawford County Board of Commissioners through Resolution 63-396. This Resolution was dated February 19, 2009. Pursuant to this Resolution, Appellant was served with a suspension order in accordance with the requirements of this Board. Appellant filed an appeal of the ten day suspension on February 26, 2009. Subsequent to the filing of this appeal, the Crawford County Board of Commissioners rescinded its ten day suspension of Appellant. This rescission was approved by the attached Resolution on March 3, 2009. Appellant was paid for the entire ten days of his suspension. Appellant concurred in this rescission of the ten day unpaid suspension. A copy of this Resolution was submitted to the State Personal Board of Review on/or about March 17, 2009.



Because Appellant actually filed an appeal from the ten day suspension that was later rescinded after the date on which he filed his appeal, there is no matter that is properly before this Board. As a result, this case should be dismissed.

Respectfully submitted,



Marc A. Fishel (0039110)

Attorney for Appellee

**Downes Fishel Hass Kim LLP**

400 S. Fifth Street, Suite 200

Columbus, Ohio 43215

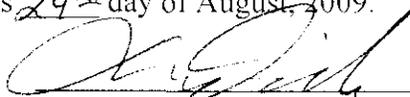
Telephone: (614) 221-1216

Facsimile: (614) 221-8769

[mfishel@downesfishel.com](mailto:mfishel@downesfishel.com)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Appellee's Motion to Dismiss was mailed, postage prepaid, by regular U.S. Mail, to Kenneth E. Kanagy, 6924 County Road 9, Edison, Ohio 43320, on this 24<sup>th</sup> day of August, 2009.



Marc A. Fishel (0039110)

ATTORNEY FOR APPELLEE

Crawford/BCC/8-09AppelleesMotionToDismiss

DOWNES · FISHEL  
HASS · KIM LLP  
Attorneys at Law

400 South Fifth Street  
Suite 200  
Columbus, Ohio 43215-5492  
(614) 221-1216 PH  
(614) 221-8769 FX

**COMMISSIONERS' OFFICE, CRAWFORD COUNTY, OHIO**

**MARCH 3, 2009**

**In the matter of rescinding Resolution No. 63-396 (2) dated February 19, 2009 and approve the working suspension for Crawford County Department of Job and Family Services (DJFS) employee, Ken Kanagy.**

Douglas J. Weisenauer made the motion to adopt the following:

**RESOLUTION**

**WHEREAS**, it has become necessary to rescind Resolution No. 63-396 (2) dated February 19, 2009 approving a ten (10) day suspension for DJFS employee, Ken Kanagy; and

**WHEREAS**, the Crawford County Department of Job and Family Services has conducted an investigation concerning employee misconduct; and

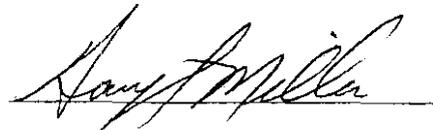
**WHEREAS**, a notice was given of a pre-disciplinary conference scheduled for February 12, 2009 to allow the employee the opportunity to respond to the allegations of neglect in the performance of assigned duties; and

**WHEREAS**, the employee freely and voluntarily waived appearance for the scheduled hearing and it has been determined that there is a basis for disciplinary action in this matter; and

**WHEREAS**, it has been recommended to the Board of Commissioners, that Ken Kanagy receive a suspension of six (6) days with the ability to work and be compensated during this suspension, as agreed upon by all parties; therefore, be it

**RESOLVED**, by the Board of Commissioners, Crawford County, Ohio that Ken Kanagy receive a six (6) days suspension, with the ability to work during this suspension, as determined by the Director of Job and Family Services and this Board.

Mo Ressallat seconded the above motion and the roll being called upon its adoption, the vote resulted as follows:

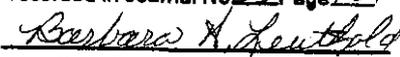
|   | AYE                                 | NAY                      |
|---|-------------------------------------|--------------------------|
|  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

BOARD OF COMMISSIONERS  
CRAWFORD COUNTY, OHIO

  
Barbara A. Leuthold, Clerk

Rescind & Approve DJFS EMPLOYEE ORDER OF SUSPENSION.BAL

I, the undersigned, Clerk of the Board of County Commissioners, Crawford County, Ohio do hereby certify that the foregoing is true and correct copy from the official record of said Board of County Commissioners as recorded in Journal No 623 Page 407

  
Clerk Board of Commissioners  
Crawford County, Ohio

*Steph to Dist.*

|                                    |        |
|------------------------------------|--------|
| Crawford County                    | Form F |
| <b>RECORD OF WRITTEN REPRIMAND</b> |        |

Employee's Name: Kenneth Kanagy

Position Title: Social Service Worker II Department: JOBS

Type of Violation: Group III Offenses, #17, Wanton or willful neglect in the performance of assigned duties, (inefficiency, neglect of duty, failure of good behavior, misfeasance, or malfeasance).

Date of Violation Occurred: January, 2009

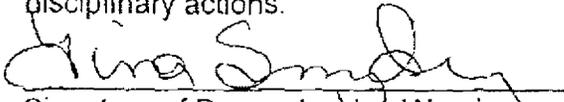
Location Where Violation Occurred: Crawford County Job and Family Services

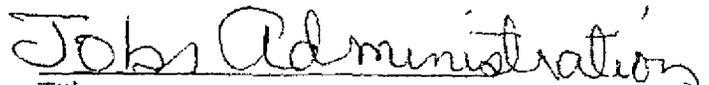
Description of Violation: On Jan 5, 2009, Crawford County JFS received an APS report regarding an 84 year old man who was delusional and without adequate heat. Mr. Kanagy failed to follow up with necessary guardianship on this case in a timely manner.

Necessary Corrective Action: 6 day suspension. The agency is willing to offer Mr. Kanagy the ability to work during this suspension, provided that he agree not to appeal this decision.

Date(s) of prior Warning(s): 3/21/2008, Verbal Warning; 3/24/08 Written Reprimand; 5/13/08 Commissioner Resolution for 5 day suspension

This written warning is issued as a corrective measure in an effort to help you improve your conduct. Any further violations could result in more severe disciplinary actions.

  
Signature of Person Issuing Warning

  
Title

I hereby acknowledge that a copy of the above Record of Written Warning has been given to me this day. I freely agree to the stipulations of this Written Warning.

  
Signature of Employee

2-17-09  
Date

Original: Personnel File  
Copy: Employee