

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Jami Mc Clure,

Appellant,

v.

Case No. 09-SUS-03-0155

Multi-County
Juvenile Detention Center,

Appellee.

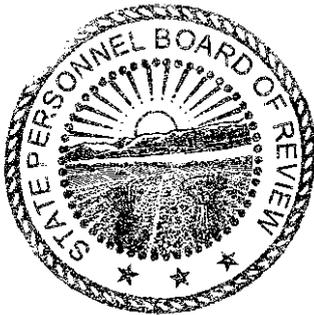
ORDER

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.A.C. § 124-3-03(C).

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



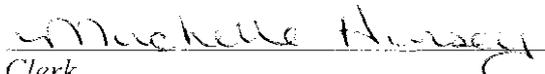


J. Richard Lumpe, *Chairman*

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, August 26, 2009.



Michelle Hurler
Clerk

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

8-26-09

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

Jami McClure,

Case No. 09-SUS-03-0155

Appellant

v.

July 13, 2009

Multi. Co. Juvenile Detention Center,

Christopher R. Young

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on July 13, 2009, upon the Appellee's Multi-County Juvenile Detention Center's motion to dismiss filed on July 8, 2009. The Appellee in its motion to dismiss pursuant to Ohio Administrative Code section 124-11-07(A) (2) moves this Board to dismiss this appeal based upon the fact that the five day suspension an issue in this appeal has been fully rescinded. To date, the Appellant has not responded to the Appellee's motion to dismiss.

For clarification, on March 5, 2009, the Appellant, Jami McClure, was given a five day and/or a 40 hour suspension, without pay. The records indicate that Ms. McClure served that five day suspension on March 16, 2009 through March 20, 2009. (See affidavit of Bennett, attached as exhibit A). The evidence indicates that the Appellant appealed her suspension to this board on March 12, 2009. Further, the evidence in the file also indicates that effective May 26, 2009, the Multi-County Juvenile Detention Center voluntarily rescinded the five day suspension of Ms. McClure. Moreover, the evidence revealed that on or about June 19, 2009, the Appellant was issued full back pay for the 40 hours of suspension that she had previously served on March 16, 2009 through March 20, 2009.(See affidavit of Bennett, attached as exhibit A).

Pursuant to Ohio Administrative Code section 124-3-03(C) provides to this Board in pertinent part that:

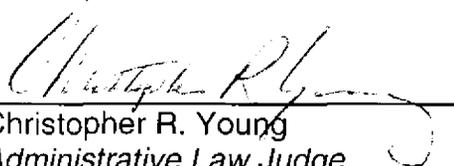
[U]pon written notice to the employee, an appointing authority may rescind a "section 124.34 order[.]"...

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The Appellee in this case has fully rescinded the Appellant's fine day suspension at issue in this appeal, rendering the legal effect of that rescission, as having not imposed the fine day suspension upon the Appellant in the first place, the Board now does not possess jurisdiction over the Appellant's appeal.

RECOMMENDATION

Therefore, having shown good cause and based upon the evidence in the case file, Appellee's motion to dismiss is hereby **GRANTED**, and I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction.



Christopher R. Young
Administrative Law Judge

CRY: