

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

Kelly L. Kollen,

Appellant.

v.

Case No. 09-SUS-11-0469

Department of Rehabilitation and Correction,
Toledo Correctional Institution,

Appellee.

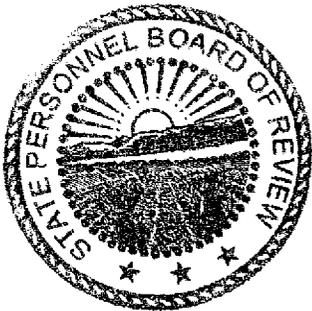
ORDER

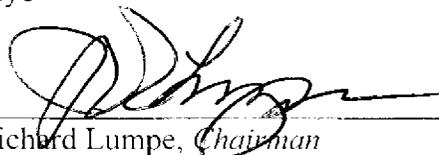
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellant's failure to comply with the requirements set forth in O.A.C. § 124-11-07 (A)(2) and (C).

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



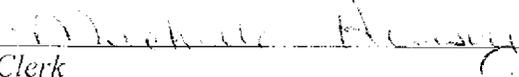


J. Richard Lumpe, *Chairman*

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 13, 2010.



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**

Kelly L. Kollen,

Case No. 09-SUS-11-0469

Appellant

v.

July 13, 2010

Dept. of Rehab. & Corr.,
Toledo Correctional Inst.,

Appellee

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

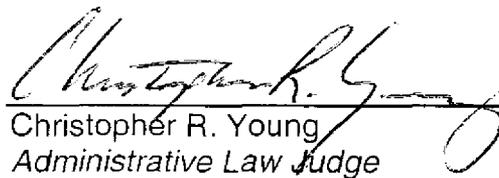
To the Honorable State Personnel Board of Review:

This cause comes on for consideration due to the Appellee's June 24, 2010, filing of motion to dismiss regarding the above-captioned case. The motion to dismiss contained: a memorandum in support; the affidavit of Jeffrey Richmond, Appellee's Labor Relations Officer; along with various accompanying documentation; and pertinent case law. Appellant was provided with the requisite amount of time to file a memorandum contra to Appellee's motion to dismiss, but, to date has not done so.

O.A.C. 124-11-07 sets forth the motions practice before this Board. O.A.C. 124-11-07 (A)(2) indicates that when a party files a dispositive motion, then an adverse party must respond affirmatively and show that there is a genuine issue in dispute. O.A.C. 124-11-07 (C) sets forth a ten-day time frame to respond to dispositive motions, such as the instant motions to dismiss. Appellant has failed to file the required response to Appellee's motion to dismiss and thus, has failed to comply with O.A.C. 124-11-07. Furthermore, Appellee's jurisdictional arguments that addressed the above captioned appeal appear to have merit.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the above captioned appeal for Appellant's failure to comply with the requirements set forth in O.A.C. 124-11-07 (A)(2) and (C).

Kelly L. Kollen
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Christopher R. Young
Administrative Law Judge

CRY: