

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

Cynthia Thornton,

Appellant,

v.

Case No. 09-TFR-10-0452

Industrial Commission of Ohio,

Appellee.

ORDER

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

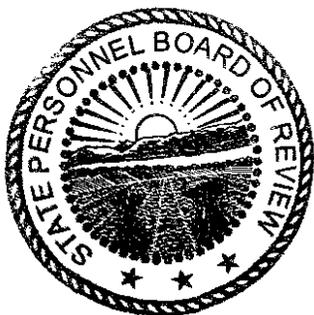
After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the instant appeal be **DISMISSED** for lack of jurisdiction because the appeal was filed prematurely, pursuant to O.A.C. § 124-1-03(D).

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, December 22, 2009.



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**

Cynthia Thornton,

Case No. 09-TFR-10-0452

Appellant

v.

November 16, 2009

Industrial Commission of Ohio,

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration November 16, 2009, upon Appellee's Response to this Board's Procedural Order, filed with the Board on November 9, 2009. Information provided by Appellee in its Response indicated that Appellee has not yet received final approval from the Department of Administrative Services (DAS) for Appellant's transfer, and that the notification provided to Appellant, from which Appellant appealed, was not intended to constitute notification of a permanent transfer.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was filed prematurely. Ohio Administrative Code Section 124-1-03(D) provides that appeals from transfers shall be filed, in writing, *within ten calendar days after receipt of the notice of transfer from the director of the department of administrative services* (emphasis added). In the matter at hand, because Appellant's transfer has not yet been approved, no notice of transfer can have been issued. Should DAS grant final approval for her permanent transfer, Appellant may file a new appeal with this Board upon receipt of the director's notice.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED**.



Jeannette E. Gunn
Administrative Law Judge