

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

Jude Meyers,

*Appellant,*

v.

Case No. 09-WHB-04-0203

Fostoria City Schools,

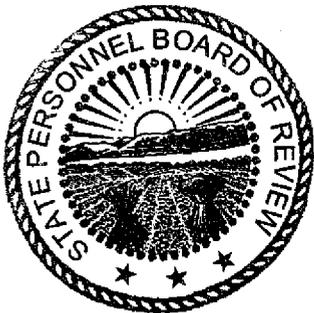
*Appellee.*

**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 over its subject matter, pursuant to O.R.C. § 124.341(D).



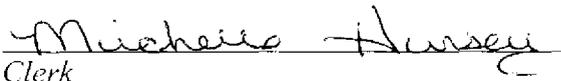
Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

  
\_\_\_\_\_  
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, November 19, 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.

11-19-09

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

JUDE MEYERS,

Case No. 09-WHB-04-0203

*Appellant*

v.

August 31, 2009

FOSTORIA CITY SCHOOLS,

JAMES R. SPRAGUE

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's April 15, 2009 filing of an appeal of the non-renewal of his contract with Appellee as a High School Principal. Since this is a case of first impression for this Board, a substantial record was thereafter developed.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed as a result of any retaliatory action taken by Appellee, Fostoria City Schools Board of Education (Board of Education). Appellant's appeal thus fails to overcome the basic jurisdictional requirement set forth in R.C. 124.341 (D).

Further, Appellant resigned *before* the Board of Education had even the opportunity to effectuate any adverse employment action. Therefore, Appellant cannot claim that he filed his appeal within thirty (30) calendar days *after* Appellant received actual notice of his appointing authority's action, as required by R.C. 124.341 (D).

In this case, Appellant addressed the Board of Education at its November 17, 2008 meeting and apparently submitted various materials to the Board of Education at that time.

On March 6, 2009, Appellant apparently met with Appellee's Superintendent, Dr. Cynthia A. Lemmerman, who informed Appellant that Dr. Lemmerman would not be recommending the renewal of Appellant's teaching contract at the Board of Education's upcoming March 16, 2009 meeting.

JUDE MEYERS  
Case No. 09-WHB-04-0203  
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Appellant subsequently submitted a resignation to the Board of Education (effective August 1, 2009), dated March 9, 2009 and received by Appellee on that same date.

At its meeting of March 16, 2009, the Board of Education accepted Appellant's resignation.

Accordingly, in this case, Appellant failed to satisfy the basic jurisdictional requirements of a whistleblower as set forth in R.C. 124.341, since there is no demonstrable adverse impact to which Appellant can point and because Appellant preempted the possible impact of the speculative non-renewal of his contract by resigning prior to the earliest date that the Board of Education could have taken action on any recommendation of non-renewal from its Superintendent.

Therefore, I respectfully **RECOMMEND** that this the State Personnel Board of Review **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.341 (D).

  
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JAMES R. SPRAGUE  
*Administrative Law Judge*

JRS: