

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Ladan H. Williams,

*Appellant,*

v.

Case No. 09-WHB-09-0414

Department of Taxation,

*Appellee*

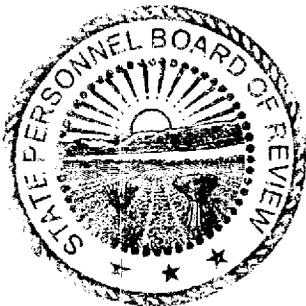
**ORDER**

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 subject matter jurisdiction, pursuant to O.R.C. § 124.341 (A).

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 11, 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**

Ladan H. Williams,

Case No. 09-WHB-09-0414

*Appellant*

v.

November 3, 2009

Department of Taxation,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for consideration upon Appellant's filing of a "whistleblower" appeal alleging that Appellee retaliated against Appellant for filing discrimination and workplace harassment charges with Appellee's Human Resources department and with the Ohio Civil Rights Commission.

Ohio Revised Code Section 124.341 governs "whistleblower" appeals filed with this Board and provides, in pertinent part:

(A) If an employee in the classified or unclassified civil service becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. In addition to or instead of filing a written report with the supervisor or appointing authority, the employee may file a written report with the office of internal auditing created under section 126.45 of the Revised Code.

In *Haddox v. Ohio State Attorney General*, (Franklin 2007), 06CVF-08-10391, the Franklin County Court of Common Pleas restated these conditions as prerequisites to whistleblower jurisdiction under R.C. 124.341. The court in *Haddox* noted that "[j]urisdiction to invoke whistleblower protection requires that the whistleblower show that she 1) made a written report, 2) transmitted the written report to her supervisor, appointing authority, the state inspector general, or other

appropriate legal official; and 3) identified a violation of state or federal statutes, rules, or regulations, or misuse of public resources in the report.” See *Haddox, supra* (citing *Wade v. Ohio Bureau of Worker’s Compensation*, 1999 Ohio App. LEXIS 2614, Franklin App. No. 98AP-997 (June 10, 1999) unreported citing to *State ex rel Cuyahoga Cty. SPBR*, 82 Ohio St.3d 496, 696 N.E.2d 1054 (1998) and to *Chubb v. Ohio Bur. of Worker’s Compensation*, 81 Ohio St.3d 295, 690 N.E.2d 1267 (1998)).

The court in *Haddox* further explained that “the requirement of a written communication, specifically addressed to an appropriate individual, is an essential element of whistleblower protection and will be strictly applied.” *Haddox, supra* (citing *Wade v. Ohio Bureau of Worker’s Compensation*, 1999 Ohio App. LEXIS 2614, Franklin App. No. 98AP-997 (June 10, 1999) unreported citing to *Kuch v. Structural Fibers, Inc.*, 78 Ohio St.3d, 134, 141, 677 N.E.2d 308 (1997)). Therefore, in order to invoke this Board’s jurisdiction, an employee must first establish that he or she complied with the reporting requirements of R.C. 124.341.

In response to this Board’s Procedural Order and Questionnaire Appellant provided, as proof of her written reporting, copies of email correspondence between herself and individuals in Appellee’s Human Resources department (Gregory Siegfried, Steven Gray, Charles Kumpar and Timothy Stauffer), and a copy of a discrimination charge filed with the Ohio Civil Rights Commission. As noted by Appellee in its Response to Appellant’s questionnaire response, none of these individuals are Appellant’s supervisor or appointing authority, or an appropriate individual as named in R.C. 124.341.

Appellant generally states in her email correspondence and discrimination charge that she has been retaliated against and has suffered workplace harassment, and that Appellee’s actions violate Appellee’s policies and Appellant’s civil rights. Appellee asserted in its Response that Appellant’s general statements do not constitute an “identification” of a violation of state or federal statute that is sufficient to sustain a claim under R.C. 124.341.

Upon a review of the information contained in the record, I find that both of Appellee’s arguments are well-taken. I find that the documents provided by Appellant as proof of written reporting are not sufficient to invoke the protections of R.C. 124.341. Appellant has not satisfied the three-part jurisdictional test set forth in *Haddox*: she did not transmit a written report to her supervisor, appointing authority,

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the state inspector general, or other appropriate legal official; nor did her written report identify a violation of state or federal statutes, rules, or regulations, or misuse of public resources. *See, Kylie-Eiland v. Ohio State University* (2008), SPBR Case No. 07-WHB-05-0171.

Therefore, because Appellant has failed to demonstrate that she met the reporting requirements of R.C. 124.341(A), I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of subject matter jurisdiction.

  
Jeannette E. Gunn  
Administrative Law Judge

JEG: