

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

George W. Ritchey

Case No. 10-IDS-04-0104

Appellant

v.

Department of Rehabilitation and Correction,
Corrections Training Academy,

Appellee.

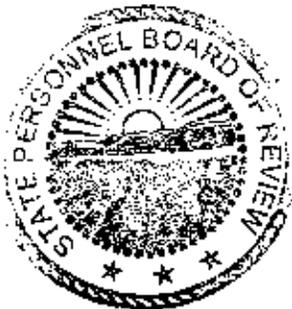
ORDER

This matter was considered before the full Board.

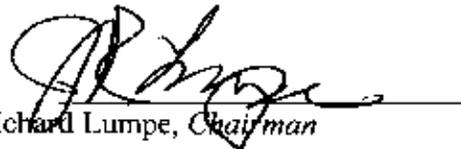
After a thorough examination of the record, including the exhibits offered by both parties, the Board finds that the Appellee has complied with the procedural and substantive requirements put forth in Ohio Revised Code sections 124.03, 124.32 and Ohio Administrative Code Chapter 123 and as a result the Appellant has been properly submitted to involuntary disability separation. Accordingly, Appellant's involuntary disability separation should be affirmed.

Wherefore, it is hereby **ORDERED** that Appellant's Involuntary Disability Separation from his position of Training Officer be **AFFIRMED** effective April 13, 2010, pursuant to O.A.C. Chapter 123.

The subject matter jurisdiction of the Board was established pursuant to sections 124.03 and 124.328 of the Ohio Revised Code.



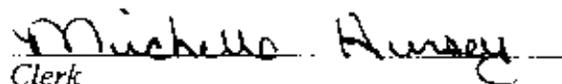
Lumpe - Aye
Sfalcin - Aye
Tillery - Aye


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 6, 2010.


Michelle Hursey
Clerk

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

12-6-10/MLH

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Appellee.

OPINION

After thoroughly considering the evidence offered by the Appellee and the testimony offered by the Appellant, the Board finds that the Appellee has met its burden in demonstrating that the Appellant's involuntary disability separation should be affirmed.

The evidence established that as a Training Officer the Appellant's most essential job duty was to instruct and to coordinate the pre-service and in-service training modules and to assist with the annual review of that training curriculum. The testimony of the Appellant's witnesses demonstrated that it was the policy of the Department of Rehabilitation and Corrections, Corrections Training Academy to have all of the Training Officers perform each of the trainings. This policy was practiced due to scheduling and staffing difficulties that could arise. Among the required training modules was the Oleoresin Capsicum (OC) training, also known as pepper spray training.

It is undisputed by either party that the Appellant was unable to participate in the OC training module due to chronic obstructive pulmonary disease (COPD). The Appellee adequately demonstrated through medical documentation that it was impossible to accommodate Mr. Ritchey to perform the training in any capacity. The inability to participate in the OC training meant that Appellant was unable to execute an essential function of his position description. The Appellant argued that a substitute trainer would adequately accommodate his disability; however, this does not enable him to perform the essential duty, but another person. Moreover, the inability to experience the OC training personally prohibited him from being able to review the process and thereby to contribute meaningfully to the assessment process.

Mr. Ritchey did not dispute any of the testimony or evidence presented by the Appellee. It was conceded by all involved that Appellant suffered from COPD and that he could not be accommodated in a way that would allow him to administer the training personally. It is unfortunate that the Appellant could not be accommodated; however, this alone does not counter the overwhelming evidence presented in order to demonstrate the Appellee's inability to

accommodate the Appellant and the Appellant's inability to perform the most essential duty of his job description.

Therefore, upon a finding that all procedural requirements and evidentiary burdens were met by the Appellee, it is our determination that the involuntary disability separation of Appellant Ritchey be **AFFIRMED**.



J. Richard Lumpe, *Chairman*