

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Charles Sass,

Case Nos. 10-ABL-01-0001
10-LAY-01-0002

Appellant,

v.

Lucas County Board of Commissioners,

Appellee.

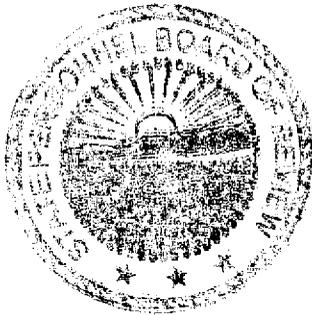
ORDER

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

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 appeals be **DISMISSED** for appellant's failure to timely file, pursuant to O.R.C. § 124.328.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye





J. Richard Lumpe, *Chairman*

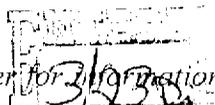
CERTIFICATION

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, March 23, 2010.



Diana Mills
Clerk

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

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

CHARLES SASS,

Appellant

v.

LUCAS COUNTY BOARD OF COMMISSIONERS,

Appellee

Case Nos. 10-ABL-01-0001
10-LAY-01-0002

February 19, 2010

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellant's **January 4, 2010 fax filing** of appeals from the abolishment of Appellant's position of Facilities Operations Manager with Appellee, **notice** of which abolishment and accompanying layoff Appellant received **on December 17, 2009**. Appellant also complains that he was denied his right of displacement and alleges he received notice of that denial on January 4, 2010.

On January 11, 2010, this Board issued a Procedural Order and accompanying abolishment/layoff questionnaire to Appellee. On January 19, 2010, Appellee filed Appellee's response. On February 18, 2010, Appellant filed Appellant's reply to Appellee's response. Taken together, these documents establish that Appellant received his notice of abolishment and layoff on December 17, 2009. It also appears that Appellant submitted his request to displace another employee and that, on January 4, 2010, Appellant then received a denial of that request to displace.

R.C. 124.328 states, in pertinent part: ... "The appeal [from a layoff or a displacement that is the result of a layoff] shall be filed or postmarked no later than ten days after receipt of the layoff notice or after the date the employee is displaced." ... In the instant cases, Appellant received notice of his layoff, as noted, on December 17, 2009. Conversely, in the instant cases, Appellant received no notice that he was being displaced. Indeed, it appears that Appellant requested but was denied the opportunity to displace *another* employee (*i.e.* George Saba).

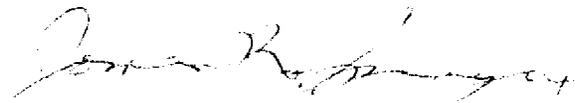
CHARLES SASS

Case Nos. 10-ABL-01-0001 and 10-LAY-01-0002

Page 2

To summarize, Appellant received notice of his layoff on December 17, 2009, yet Appellant did not file his appeals (via fax) until January 4, 2010. Self-evidently, then, Appellant did not file his appeals within the ten-day time frame required by R.C. 124.328. As a result, his appeals are untimely filed. It is noted that Appellant did not mail his appeals to this Board. Thus, there is no postmark of concern in the instant appeals.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeals for Appellant's failure to timely file, pursuant to R.C. 124.328.



JAMES R. SPRAGUE
Administrative Law Judge

JRS: