

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

James E. Baroni,

Appellant,

v.

Case No. 10-MIS-02-0041

Department of Mental Health,
Northcoast Behavioral Healthcare,

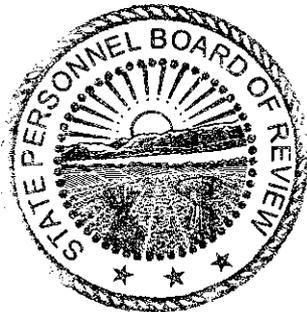
Appellee.

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. §§ 124.03 and 124.34 and O.A.C. § 123:1-30-04.



Lumpe - Aye
Sfalcin - Aye
Tillery - Aye

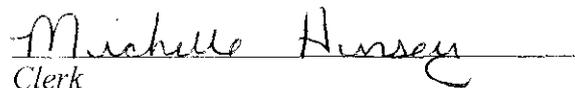


J. Richard Lumpe, *Chairman*

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, April 7, 2010.



Clerk

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

4-7-10

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

James E. Baroni

Case No. 10-MIS-02-0041

Appellant

v.

March 5, 2010

Department of Mental Health,
Northcoast Behavioral Healthcare

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

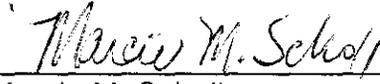
To the Honorable State Personnel Board of Review:

This cause comes on for consideration on March 5, 2010, upon Appellant Baroni's notice of appeal, filed on February 16, 2010. In his notice of appeal, Appellant Baroni states he was reinstated from an involuntary disability separation effective February 14, 2010. He continues to state that he applied for reinstatement on December 10, 2009, stating his doctor was releasing him to return to work on December 28, 2009. Through this appeal, he is seeking ". . . full or partial back pay for the period of December 28, 2009, through February 13, 2010, and/or restoration of part or all of his vacation leave taken between December 28, 2009, and January 13, 2010."

Unlike a court of general jurisdiction, this Board has only the authority granted to it by statute; therefore the Board does not possess equity jurisdiction. Sections 124.03 and 124.34 of the Ohio Revised Code confers jurisdiction on this Board and those statutes grant this Board jurisdiction over "discharges", which includes a discharge from employment due to a disability separation. OAC section 123:1-30-04 provides a right to appeal to this Board if an employee is denied reinstatement from a disability separation. Nowhere is this Board granted jurisdiction to review the time period in which an appointing authority has to reinstate an employee.

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Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** due to a lack of subject matter jurisdiction.



Marcie M. Scholl
Administrative Law Judge

:mms