

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Myron Mast,

Appellant,

Case Nos. 10-RED-09-0244
10-FIN-09-0245

v.

Department of Rehabilitation and Correction,
Ohio Reformatory for Women,

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 lack of jurisdiction, pursuant to O.R.C. §§ 124.34 and 124.27(C).

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



J. Richard Lumpe
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 13, 2010.

Lizabeth Hunsley
Clerk

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

12-13-10 MH

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

Myron Mast,

Appellant

v.

Department of Rehabilitation & Correction,
Ohio Reformatory for Women,

Appellee

Case Nos. 10-RED-09-0244
10-FIN-09-0245

November 9, 2010

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

The above-referenced appeals came on for consideration pursuant to Appellee's Motion to Dismiss, filed with this Board on October 18, 2010. Appellee asserts that this Board lacks jurisdiction to consider the instant matters. Appellant filed no *memorandum contra*.

Based upon the uncontroverted information contained in the file, I make the following findings of fact. Appellant was employed by Appellee as a Plant Maintenance Engineer 2, which is an overtime exempt position. Appellant's original probationary period in the Plant Maintenance Engineer 2 position was from February 14, 2010 until August 12, 2010. On July 19, 2010, Appellant consented to an extension of his probationary period until October 12, 2010. On August 9, 2010, Appellant was informed that effective August 15, 2010, he would be demoted to the Stationary Engineer 2 position that he previously held, based upon unsatisfactory performance. On August 10, 2010, Appellee issued a disciplinary fine of twenty-four hours to Appellant.

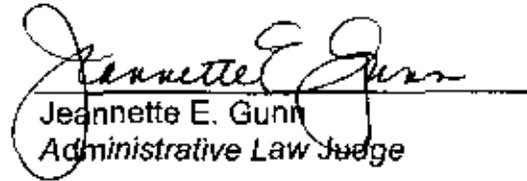
Pursuant to R.C. 124.34(B), this Board has jurisdiction to consider disciplinary fines issued to overtime exempt employees only when they exceed twenty-four hours' pay. In the matter at hand, Appellant's disciplinary fine did not exceed that amount, therefore, I find that this Board may not consider an appeal of that fine.

R.C. 124.27(C) provides that there is no right of appeal to this Board pursuant to R.C. 124.34 when a probationary employee is removed or reduced in position for

Myron Mast
Case Nos. 10-RED-09-0244 and 10-FIN-09-0245
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unsatisfactory service. Accordingly, I find that this Board may not properly exercise jurisdiction over Appellant's appeal of his probationary reduction.

Therefore, because this Board lacks jurisdiction to consider the issues raised by Appellant in the above-referenced matters, I respectfully **RECOMMEND** that Appellee's Motion to Dismiss be **GRANTED** and the instant appeals be **DISMISSED** for lack of jurisdiction.


Jeannette E. Gunn
Administrative Law Judge

JEG: