

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Scott Moore,

Appellant,

v.

Case No. 10-WHB-12-0348

Department of Youth Services Central Office,

Appellee.

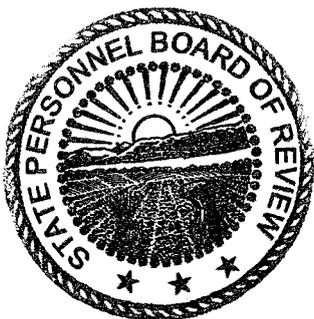
ORDER

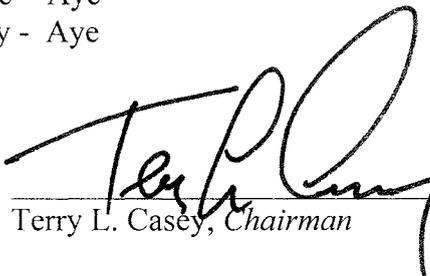
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** since Appellant failed to comply with the requirements set forth in O.A.C. § 124-11-07(A)(2) and (C) and for failure to appear at the status conference, pursuant to O.A.C. § 124-11-19(A).

Casey - Aye
Lumpe - Aye
Tillery - Aye

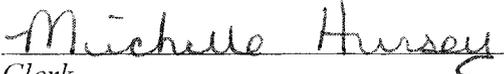



Terry L. Casey, *Chairman*

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 29, 2011.


Michelle Hursey
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**

Scott Moore,

Case No. 10-WHB-12-0348

Appellant

v.

February 9, 2011

Dept of Youth Services, Central Office,

Christopher R. Young

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on February 9, 2011, after the completion of a status conference that was held on February 7, 2011. Appellee appeared and was represented by Rory P Callahan, Assistant Attorney General. Appellant failed to appear and Appellee moved to dismiss this appeal.

I find notice was properly served on Appellant on January 6, 2011, by regular mail, and no good cause has been shown for Appellant's failure to appear.

Additionally, this cause also comes on for consideration due to the Appellee's January 19, 2009, filing of motion to dismiss regarding the above-captioned case. The motion to dismiss asserted that the Appellant's appeal should be dismissed for being untimely, for not stating what, if any, retaliatory action was taken against him and for not filing a written report with anyone as required under R.C. section 124.341(A). Appellant was provided with the requisite amount of time to file a memorandum contra to Appellee's motion to dismiss, but, to date has not done so.

O.A.C. 124-11-07 sets forth the motions practice before this Board. O.A.C. 124-11-07 (A)(2) indicates that when a party files a dispositive motion, then an adverse party must respond affirmatively and show that there is a genuine issue in dispute. O.A.C. 124-11-07 (C) sets forth a ten-day time frame to respond to dispositive motions, such as the instant motions to dismiss. Appellant has failed to file the required response to Appellee's motion to dismiss and thus, has failed to comply with O.A.C. 124-11-07. Furthermore, Appellee's jurisdictional arguments that addressed the above captioned appeal appear to have merit.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the above captioned appeal for Appellant's failure to comply with the requirements set forth in O.A.C. 124-11-07 (A)(2) and (C) and for failure to appear at the status conference.

I **RECOMMEND** the Appellee's motion be **GRANTED** and the appeal be **DISMISSED**.



Christopher R. Young
Administrative Law Judge

CRY: