

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

PAMELA K. BOWMAN,

*Appellant,*

v.

Case No. 11-ABL-06-0194

DEPARTMENT OF YOUTH SERVICES, CENTRAL OFFICE,

*Appellee*

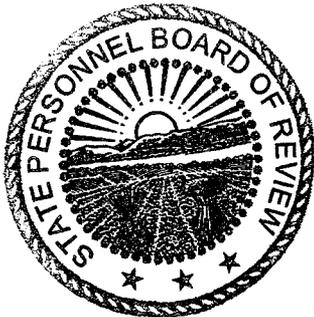
**ORDER**

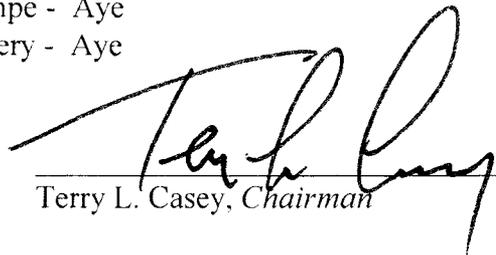
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including 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 is **DISMISSED** for Appellant's failure to comply with the requirements set forth in Ohio Administrative Code 124-11-07, for Appellant's failure to file a memorandum *contra* as set forth at Pre-Hearing, and for Appellant's lack of cognizable claim due to no harm having occurred as a result of her displacement.

Casey - Aye  
Lumpe - Aye  
Tillery - Aye

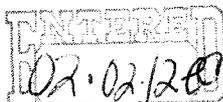


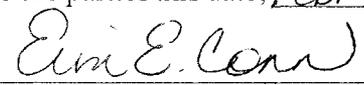
  
Terry L. Casey, *Chairman*

**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 constitutes ~~(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, February 02, 2012.



  
Erin E. Conn  
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**

PAMELA K. BOWMAN,

Case No. 11-ABL-06-0194

*Appellant*

v.

November 22, 2011

DEPARTMENT OF YOUTH SERVICES,  
CENTRAL OFFICE,

*Appellee*

JAMES R. SPRAGUE  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on due Appellant's filing of an appeal from the abolishment of her full-time position of Management Analyst Supervisor (MAS) 1 at Appellee's Office of Finance and Planning. Appellant was then displaced into another full-time MAS 1 position at the Bureau of Community Facilities with no change in pay.

This matter was thereafter set for Pre-Hearing. That Pre-Hearing was continued due to a conflict with Appellant's pre-arranged trip out of town and was re-set for October 2, 2011. At Pre-Hearing, a schedule was established for Appellee to file Appellee's motion to dismiss on or before October 28, 2011 and for Appellant to file her memorandum *contra* on or before November 18, 2011.

Thereafter, Appellee timely filed its motion to dismiss on October 28, 2011. However, Appellant has not, to date, filed her memorandum *contra*.

In its motion to dismiss, Appellee asserts that Appellant has suffered no cognizable harm from her displacement, as her classification, full-time designation, and rate of pay have not changed.

At Pre-Hearing, Appellant asserted that she was for a short time placed in an Administrative Assistant 3 position but is, again, in an MAS 1 position. Appellant further asserted that she was more qualified for and more conversant with the responsibilities of her former position than for and with her current position. Finally, Appellant asserted that another individual, who took an unclassified appointment, would, except for this appointment, have been the individual to be displaced.

O.A.C. 124-11-07 governs the motions practice before this Board. O.A.C. 124-11-07 (A) (2) and (C) combine to require that, when a properly supported motion to dismiss is filed, an opposing party must show there is a genuine issue in

PAMELA K. BOWMAN  
Case No. 11-ABL-06-0194  
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dispute. Here, Appellant was provided with sufficient time to file a memorandum *contra* but has apparently chosen not to do so.

An appealing party's failure to so file constitutes a ground for dismissal of the appeal before this Board. We may also presume that Appellant understands that she was provided with an opportunity at Pre-Hearing to air her concerns about her displacement and further presume that such an opportunity was sufficient given the circumstances in which Appellant finds herself.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for Appellant's failure to comply with the requirements set forth in O.A.C. 124-11-07, for Appellant's failure to file a memorandum *contra* as set forth at Pre-Hearing, and for Appellant's lack of a cognizable claim due to no harm having occurred as a result of her displacement.

  
\_\_\_\_\_  
JAMES R. SPRAGUE  
Administrative Law Judge

JRS:

cc: PAMELA K. BOWMAN, *PRO SE*

DEPARTMENT OF YOUTH SERVICES, CENTRAL OFFICE

MAHJABEEN F. QADIR  
ASSISTANT ATTORNEY GENERAL  
PHILIP L. JUDY  
ASSISTANT ATTORNEY GENERAL