

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Ardeth Knuth,

Case Nos. 11-RED-04-0090

11-MIS-04-0091

Appellant,

v.

Bureau of Workers Compensation,

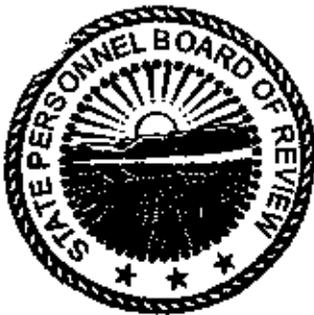
Appellee.

ORDER

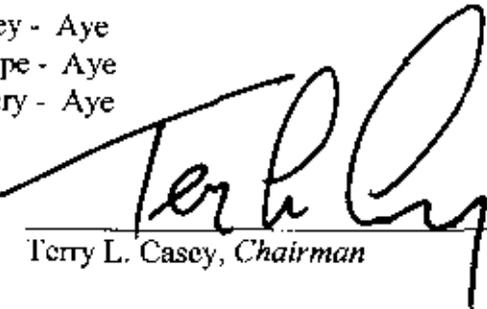
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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** due to a lack of subject matter jurisdiction, pursuant to O.A.C. § 123:1-30-04(A).



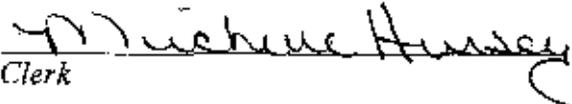
Casey - Aye
Lumpe - Aye
Tillery - Aye


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 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, July 22, 2011.


Clerk

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

7-22-11mH

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

Ardeth Knuth

Case Nos. 11-RED-04-0090
11-MIS-04-0091

Appellant

v.

May 25, 2011

Bureau of Workers Compensation

Marcie M. Scholl
Administrative Law Judge

Appellee

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on May 25, 2011, upon Appellant Knuth's notice of appeal, filed on March 21, 2011. In his notice of appeal, Appellant Knuth states that he was involuntarily disability separated from Appellee on November 17, 2010 and was released to return to work by his doctor on February 8, 2011. He applied for reinstatement and Appellee sent him out for an independent medical examination on February 19, 2011. Appellee then notified Appellant Knuth that he could return to work on March 14, 2011, which he did. Appellant Knuth is appealing to this Board to receive compensation from the time period of February 8, 2011 thru March 13, 2011.

Reinstatement from an involuntary disability separation is governed by administrative rule 123:1-30-04 of the Ohio Administrative Code. Paragraph (A) of that rule states as follows:

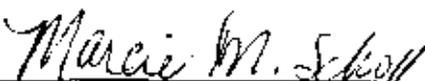
A) Timeline for reinstatement. An employee may make a written request to the appointing authority for reinstatement from a disability separation. An employee may not make a first request for reinstatement until three months from the date the employee was no longer in active work status. **The appointing authority shall notify the employee of its decision to approve or deny the reinstatement request no later than sixty days after it receives the employee's written request.** The employee shall not make subsequent requests for reinstatement more than once every three months from the date the employee is notified of a reinstatement denial. An employee is not eligible for reinstatement if the request

occurs later than two years from the date that the employee was no longer in active work status due to the disabling illness, injury, or condition. (Emphasis added).

Appellee has complied with the above administrative rule. Appellant Knuth submitted his request for reinstatement on February 8, 2011 and he was returned to work on March 14, 2011, well within the sixty day period as required in the administrative rule. It takes time for an appointing authority to schedule an independent medical examination and to review the reports. Once an appointing authority decides to reinstate an employee, it also takes time to complete the paperwork to reinstate an employee.

This Board has no jurisdiction to award back pay to an employee due to the allegation that it took an agency too long to reinstate an employee. The evidence has established that Appellee complied with the pertinent administrative rule and there has been no showing of any abuse of authority on the part of the Appellee.

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



Marcie M. Scholl
Administrative Law Judge