

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

NUALA M. ARCHER,

Appellant,

v.

Case No. 11-REM-08-0277

CLEVELAND STATE UNIVERSITY,

Appellee

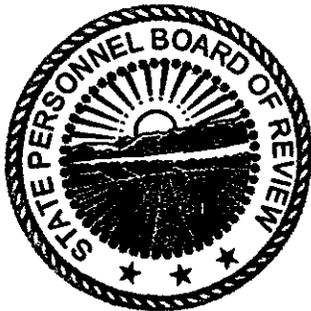
ORDER

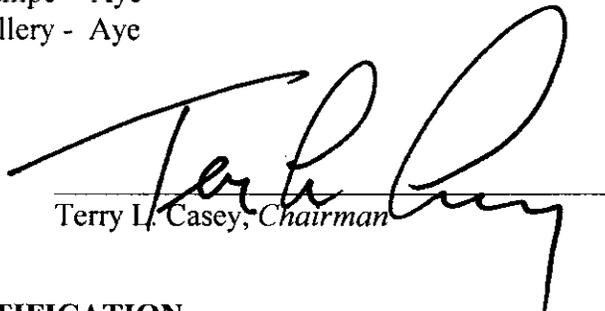
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record, 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 appeal is **DISMISSED** for lack of jurisdiction.

Casey - Aye
Lumpe - Aye
Tillery - Aye

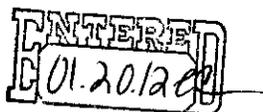


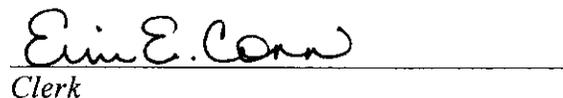

Terry L. Casey, *Chairman*

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, January 20, 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**

Nuala M. Archer

Case No. 11-REM-08-0277

Appellant

v.

December 14, 2011

Cleveland State University

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on December 14, 2011, upon Appellee's December 1, 2011, Response to a Procedural Order and Questionnaire issued by this Board on November 18, 2011. Appellant Archer had ten (10) days to file an optional reply and to date, no reply has been filed.

I find that the Appellant is classified as a Professor. The Professor classification is included in a bargaining unit which is represented by American Association of University Professors - CSU Chapter. Appellee Cleveland State University and American Association of University Professors - CSU Chapter have signed a collective bargaining contract, which covers the Appellant's bargaining unit. Appellee indicated in its response to the questionnaire that Appellant Archer filed a grievance of her removal with her labor union.

Appellee also states Appellant Archer was an unclassified employee pursuant to section 124.11(A)(7)(a) of the Ohio Revised Code, at the time of her removal. That statute states as follows:

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, **instructors, teachers**, and such employees as are

engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities; (Emphasis added).

As can be seen from reading the above statute, teachers and instructors of a college and/or university are in the unclassified service. Appellant Archer was a professor at Appellee and was therefore in the unclassified service. Pursuant to section 124.03 of the Ohio Revised Code, this Board does not possess jurisdiction over unclassified employees. Pursuant to section 4117.10(A) of the Ohio Revised Code this Board does not possess jurisdiction over employees covered by a collective bargaining agreement. This Board is, therefore, without jurisdiction to hear the instant appeal.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of jurisdiction.



Marcie M. Scholl
Administrative Law Judge

:mms