

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

ELIZABETH KITCHEN,

Appellant,

v.

Case No. 11-SUS-08-0267

DEPARTMENT OF HEALTH,

Appellee

ORDER

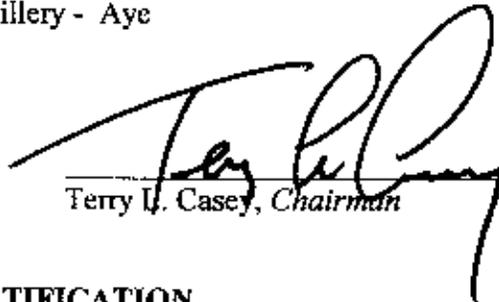
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 be **DISMISSED** for lack of subject matter jurisdiction, pursuant to R.C. 124.03.



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, September 28, 2011.


Eric E. Conner
Clerk

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

Elizabeth Kitchen,

Case No. 11-SUS-08-0267

Appellant

v.

August 30, 2011

Department of Health,

Jeannette E. Gunn

Appellee

Administrative Law Judge

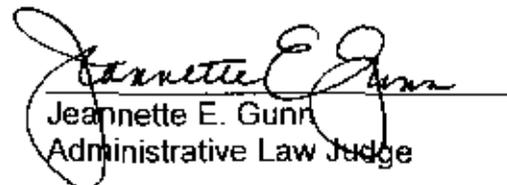
REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on August 30, 2011, upon a review of the information contained in the record. I find that Appellant has filed this appeal to protest her three-day suspension.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Suspensions of three days or less are not appealable to the State Personnel Board of Review, pursuant to Ohio Revised Code Section 124.34(B). See *Gillard v. Norris* (1988), 857 F.2d 1095; *Rapier v. Darke County Board of Mental Retardation and Developmental Disabilities* (Mar. 10, 1993), Franklin Co., No. 92-CV-09-7589, unreported.

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


Jeannette E. Gunn
Administrative Law Judge