

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

GERALD N. ROY,

*Appellant,*

v.

Case No. 12-FRN-11-0235

LAKE COUNTY BOARD OF COMMISSIONERS,

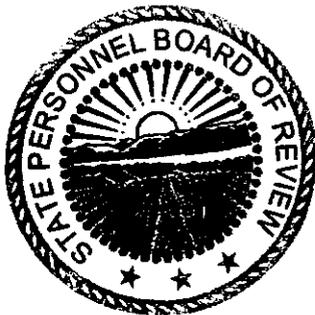
*Appellee*

**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 appeal is **DISMISSED** due to Appellant's untimely filing of his notice of appeal pursuant to administrative rule 124-1-03(I) of the Ohio Administrative Code.



Casey - Aye  
Lumpe - Aye  
Tillery - Aye

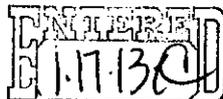
  
Terry L. Casey, *Chairman*

**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 17, 2013.

  
Erin E. Con  
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**

Gerald N. Roy

Case No. 12-FRN-11-0235

*Appellant*

v.

November 19, 2012

Lake County Board of Commissioners

Marcie M. Scholl

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration November 19, 2012, upon Appellant's filing of an appeal of a forced resignation.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed within thirty (30) calendar days after Appellant was allegedly forced to resign, as required by Ohio Administrative Code Section 124-1-03(I).

Appellant Roy states in his notice of appeal that he "was forced to resign on July 10, 2012, ...". His notice of appeal was filed with this Board on November 8, 2012. The timelines for appeals are found in this Board's administrative rule 124-1-03 of the Ohio Administrative Code. Since Appellant Roy did not receive a removal order from the Appellee, as he resigned his position (albeit by an alleged forced resignation), the time limit for an appeal is found in paragraph (I) of that rule, which states as follows:

- (I) Appeals from all other actions, including denials of reinstatement from disability separations, shall be filed, in writing, with the state personnel board of review **not more than thirty calendar days after the time the appellant receives actual notice of the action.** (Emphasis added).

Gerald N. Roy  
Case No. 12-FRN-11-0235  
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Therefore, pursuant to the above administrative rule, Appellant Roy would have had thirty calendar days from the date of his alleged forced resignation to file a timely appeal with this Board. Since he resigned on July 10, 2012, thirty days from that date would have been August 9, 2012. His appeal was not filed with this Board until November 8, 2012, approximately three months late.

Unlike a court of general jurisdiction, this Board does not possess any equity jurisdiction and has only the jurisdiction granted to it by statute or administrative rule. Pursuant to the above administrative rule, Appellant Roy did not file his notice of appeal with this Board in a timely fashion and thus, this Board is without jurisdiction to hear this matter.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** due to Appellant Roy's untimely filing of his notice of appeal pursuant to administrative rule 124-1-03(I) of the Ohio Administrative Code.



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Marcie M. Scholl  
*Administrative Law Judge*

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