

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

SHAWN LEONHARDT,

Appellant,

v.

Case No. 12-IDS-01-0015

DEPARTMENT OF YOUTH SERVICES, CENTRAL OFFICE,

Appellee

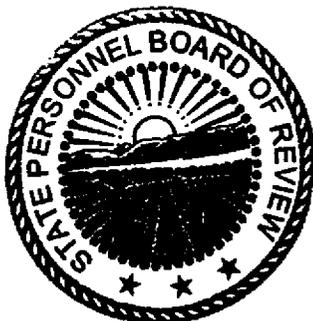
ORDER

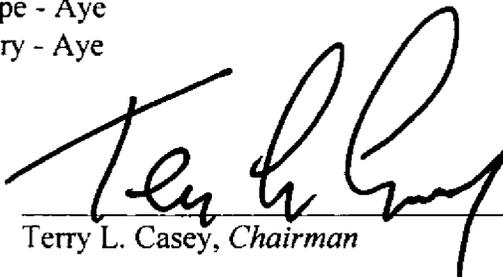
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 appeal is **DISMISSED**.

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, May 24, 2012.


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**

Shawn Leonhardt,

Case No. 12-IDS-01-0015

Appellant

v.

April 23, 2012

Department of Youth Services,
Central Office,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for consideration on April 23, 2012, upon Appellee's Response to Procedural Order, filed with this Board on March 15, 2012. Appellant did not file an optional Reply to Appellee's Response.

Appellant filed a timely notice of appeal from his involuntary disability separation, effective January 15, 2012. In Appellee's Response, Appellee asserts that Appellant received temporary total workers compensation disability benefits beginning January 16, 2012. The R.C. 124.34 Order of Involuntary Disability Separation indicates that Appellant's disability separation was based upon the doctor's statement presented at Appellant's December 19, 2011, pre-separation hearing, and that Appellant's last day of work was July 26, 2011.

Appellant filed no information with this Board to dispute that which was provided by Appellee or to establish that any changes occurred between the date of his pre-separation hearing and the effective date of his separation which would have affected his medical condition. The question to be answered at record hearing in the instant appeal would be if Appellant was capable of performing the essential duties of his position as of the date of his involuntary disability separation. It would be fraudulent for Appellant to argue that he could perform his duties as of that date and, at the same time, collect disability leave benefits. Appellant cannot argue to this Board that he could perform his duties and at the same time argue to the Bureau of Workers Compensation that he could not do those duties.

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Appellant's reinstatement rights run for two years from his last day worked and he has until that time to submit medical evidence to Appellee that he is able to return to work and apply for reinstatement. Should he do so and be denied reinstatement at that time, Appellant could then appeal the denial of reinstatement to this Board.

Therefore, based on the above rationale, it is my **RECOMMENDATION** that this appeal be **DISMISSED**.



Jeanette E. Gunn
Administrative Law Judge

:jeg