

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

PERRY J. RICCIARDI,

Appellant,

v.

Case No. 12-RED-10-0224

DEPARTMENT OF TRANSPORTATION,

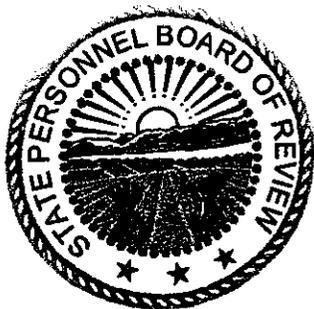
Appellee

ORDER

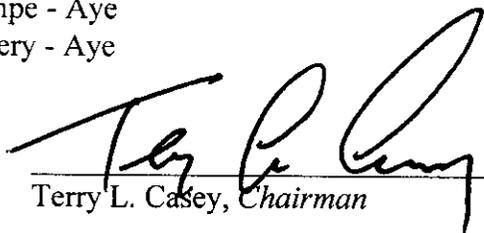
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellee's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED** for lack of jurisdiction over the subject matter of the appeal.



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, March 21, 2013.


Clerk

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

3/21/13

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

Perry J. Ricciardi,

Case No. 12-RED-10-0224

Appellant

v.

February 4, 2013

Department of Transportation,

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for consideration pursuant to Appellee's Motion to Dismiss, filed with this Board on December 21, 2012. Appellee asserts that this Board lacks subject matter jurisdiction over the instant appeal. Appellant filed no *memorandum contra*.

Based upon the uncontroverted information contained in the record, I make the following findings of fact:

Appellant has been employed by Appellee as a Transportation Engineer 5 from 2002 until the present. Transportation Engineer 5 is a position designated as falling within Appellee's career professional service, and Appellant acknowledged his status as an employee in the career professional service in 2002 and 2003.

Employees in Appellee's career professional service are governed by the provisions set forth in R.C. 5501.20, which provides that such employees may appeal only a removal action to the State Personnel Board of Review.

Appellant's appeal, filed with this Board on October 1, 2012, seeks a review of his "reduction in pay or position," received on July 17, 2012.

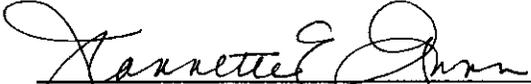
CONCLUSIONS OF LAW

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. R.C.

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5501.20(D) limits the authority of this Board to hear appeals from employees in the career professional service of the Ohio Department of Transportation to only those appeals which involve an employee's removal from employment. Because Appellant has not filed such an appeal, I find that this Board has no authority to consider the instant matter.

Therefore, I respectfully **RECOMMEND** that Appellee's Motion to Dismiss be **GRANTED** and this appeal be **DISMISSED** for lack of jurisdiction over the subject matter of the appeal.


Jeannette E. Gunn
Administrative Law Judge

JEG: