

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

ANTHONY KIBOGO,

*Appellant,*

v.

Case No. 12-REM-02-0036

AUDITOR OF STATE,

*Appellee*

**ORDER**

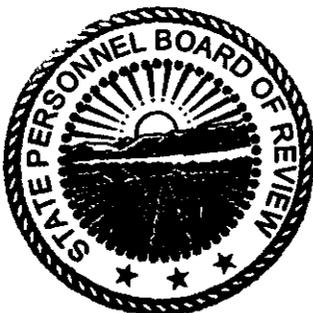
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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.

It is noted that Appellant was previously before this Board in SPBR Case No. 11-REM-11-0349. In that case, a procedural defect led to the disaffirmance of an R.C. 124.34 Order of Removal. In accordance with the procedure established for such a procedural disaffirmance, an appointing authority (here the Auditor of State) may again discipline an employee for the allegations contained in the disaffirmed Order, if properly done. The employee may then *timely* file an appeal from that new Order with this Board. In the instant case, Appellee did issue to Appellant a new Order of Removal and Appellant did file an appeal with this Board from that Order. Unfortunately, while Appellant did timely file his first appeal with this Board (within 10 days of receipt of the Order of Removal), *Appellant did not timely file his second appeal with this Board*, filing many days after the pertinent 10-day deadline had already passed.

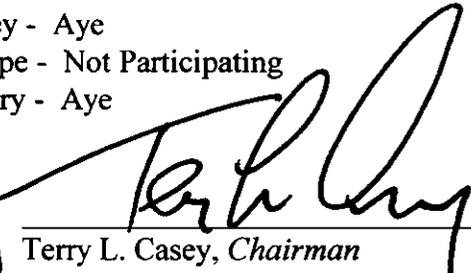
Because this Board must, and does, hold each party equally accountable for the Revised Code and Ohio Administrative Code provisions that apply, this Board cannot now overlook Appellant's untimely filing of his second appeal and, so, must dismiss same.

Wherefore, it is hereby **ORDERED** that the instant appeal is **DISMISSED** for untimely filing, pursuant to R.C. 124.34.



Casey - Aye  
Lumpe - Not Participating  
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 09, 2012.

Elin E. Cow

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**

Anthony Kibogo,

Case No. 12-REM-02-0036

*Appellant*

v.

March 13, 2012

Auditor of State,

Christopher R. Young

*Appellee*

*Administrative Law Judge*

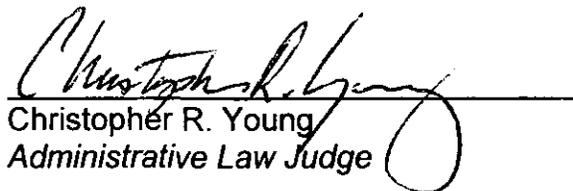
**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration March 13, 2012, upon Appellant's February 14, 2012, filing of an appeal of his removal.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed within ten (10) calendar days following the date on which the order of removal was served on the employee on November 22, 2011, as required by Ohio Revised Code Section 124.34 and/or within thirty (30) calendar days after Appellant received actual notice of his removal, as required by Ohio Administrative Code Section 124-1-03(I).

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED**.

  
Christopher R. Young  
*Administrative Law Judge*

CRY: