

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

TIA HELM,

Appellant,

v.

Case No. 12-REM-06-0134

DEPARTMENT OF REHABILITATION & CORRECTION,
OHIO REFORMATORY FOR WOMEN,

Appellee

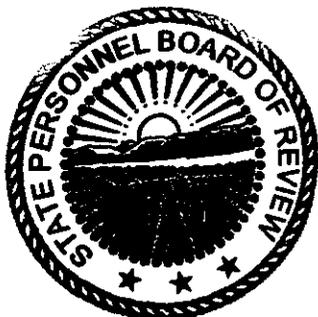
ORDER

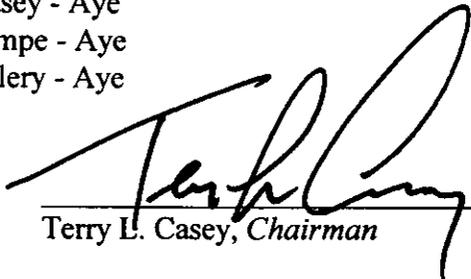
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** for lack of jurisdiction due to Appellant's probationary status and her inclusion in a bargaining unit subject to a bargaining agreement which provides a grievance procedure culminating in final and binding arbitration.

Casey - Aye
Lumpe - Aye
Tillery - Aye

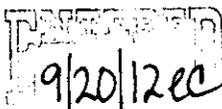


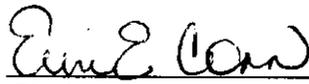

Terry L. Casey, *Chairman*

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 20, 2012.




Erin E. Conroy
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**

Tia Helm,

Case No. 12-REM-06-0134

Appellant

v.

August 8, 2012

Department of Rehabilitation & Correction,
Ohio Reformatory for Women,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on August 8, 2012, pursuant to Appellee's Motion to Dismiss, filed on July 19, 2012, and Appellee's Response to this Board's July 17, 2012, Procedural Order and Questionnaire, filed on July 27, 2012. Appellee contends this matter is properly resolved through the grievance procedure pursuant to a collective bargaining agreement and this Board further lacks jurisdiction to consider the matter due to Appellant's status as a probationary employee. Appellant did not file an optional response to either filing.

Based upon the uncontroverted information contained in the record, I find that Appellant was appointed to a position as a Correctional Nurse Practitioner with Appellee on January 13, 2012. I further find that this position was assigned a 180 day probationary period, which extended from her January 13, 2012, date of hire through July 11, 2012. Appellant was removed during the probationary period. R.C. 124.27(C) states that a probationary employee who is removed or reduced in position for unsatisfactory service has no right of appeal pursuant to R.C. 124.34, which provides this Board with jurisdiction over disciplinary actions. *Walton v. Montgomery County Welfare Department* (1982), 69 Ohio St. 2d 58.

Information contained in the record also establishes that Appellant's Correctional Nurse Practitioner position is included in a bargaining unit which is represented by SEIU District 1199. Appellee and SEIU District 1199 have signed a collective bargaining contract, which covers the Appellant's bargaining unit. The above contract provides a grievance procedure resulting in final and binding arbitration. Appellant was removed; this action is covered by the contract grievance

Tia Helm
Case No. 12-REM-06-0134
Page 2

procedures. Ohio Revised Code Section 4117.10(A) states that where a bargaining agreement provides a grievance procedure which culminates in final and binding arbitration, the State Personnel Board of Review has no jurisdiction.

Therefore, I respectfully **RECOMMEND** this appeal be **DISMISSED** for lack of jurisdiction due to Appellant's probationary status and her inclusion in a bargaining unit subject to a bargaining agreement which provides a grievance procedure culminating in final and binding arbitration.

Jeannette E. Gunn
Administrative Law Judge

JEG: