

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

MATTHEW FRENCH,

Appellant,

v.

Case No. 12-REM-08-0194

OHIO STATE UNIVERSITY,

Appellee

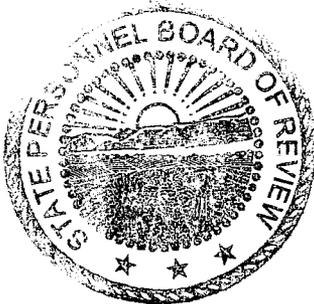
ORDER

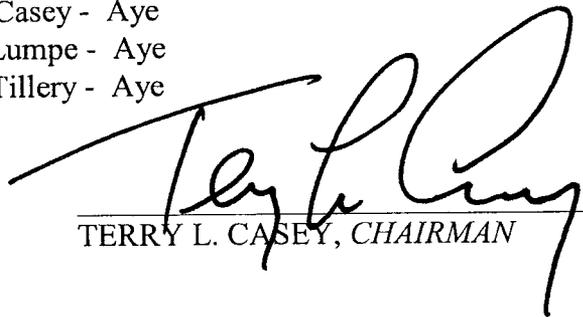
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and 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 this appeal be **DISMISSED** due to the untimely filing of the notice of appeal, pursuant to Ohio Revised Code § 124.34.

Casey - Aye
Lumpe - Aye
Tillery - Aye

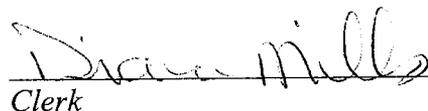



TERRY L. CASEY, CHAIRMAN

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, December 20 2012.


Clerk

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

12-20-12

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

Matthew French

Case No. 12-REM-08-0194

Appellant

v.

October 29, 2012

Ohio State University

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration October 29, 2012, upon Appellant's filing of an appeal of his removal on August 29, 2012; Appellee's Motion to Dismiss, filed on October 9, 2012; and Appellant's Motion to Quash, filed on October 16, 2012.

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, as required by Ohio Revised Code Section 124.34.

As stated in Appellant French's notice of appeal, he received notice of his termination on July 18, 2012, effective July 21, 2012. As correctly stated in Appellee's Motion to Dismiss, section 124.34 of the Ohio Revised Code states that a notice of appeal must be filed with this Board within ten (10) calendar days from the date the employee is served with notice of termination. In the instant appeal, since Appellant French received notice of his termination on July 18, 2012, he would have had ten days to file a timely appeal, which would have been by July 28, 2012. Since that date was a Saturday, the deadline would be moved to the next business day, Monday, July 30, 2012. Appellant French did not file his notice of appeal until August 29, 2012, approximately thirty days late.

Appellant French stated in his Motion to Quash (which has been treated as a response to Appellee's Motion to Dismiss) that he believed he had ten days from the date the Board Order was mailed out on a previous case, which was September 21, 2012, therefore stating he was early with his appeal in the instant case.

Matthew French
Case No. 12-REM-08-0194
Page 2

Appellant French's statement is not correct. His previously filed and adjudicated case has no bearing on the timelines for filing a timely appeal in the instant case as each action by the Appellee begins a new timeline and is a separate appeal. Appellant French has filed actions with this Board before, dating back to 2009, which were timely filed, showing he has previous knowledge of the timelines for filing an appeal with this Board.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** due to the untimely filing of his notice of appeal, pursuant to section 124.34 of the Ohio Revised Code.



Marcie M. Scholl
Administrative Law Judge

:mms