

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JEFFERY T. SELLS,

Appellant,

v.

Case No. 12-REM-09-0202

CHAMPAIGN COUNTY DISPATCH CENTER,

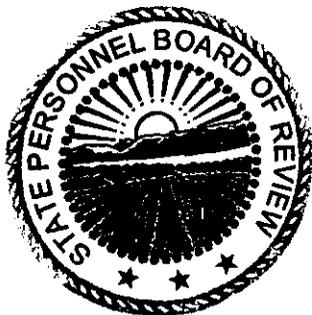
Appellee

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 instant appeal is **DISMISSED** due to a lack of subject matter jurisdiction pursuant to Ohio Revised Code Section 124.03



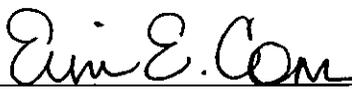
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, January 17, 2013.


Erin E. Con
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**

Jeffery T. Sells

Case No. 12-REM-09-0202

Appellant

v.

November 19, 2012

Champaign County Dispatch Center

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon Appellant Sell's September 12, 2012, filing of an appeal of his removal and Appellee's Motion to Dismiss, filed on October 1, 2012. Appellant Sells did not file a memorandum *contra*.

Appellant Sells was employed by the Champaign County Dispatch Center and was removed from his position as a Dispatcher effective September 6, 2012. Appellee argues this Board is without jurisdiction to hear this appeal as Appellee does not fall under the civil service laws. Appellee's argument is correct.

Unlike a court of general jurisdiction, this Board only has the jurisdiction provided to it by statute. Section 124.03(A) of the Ohio Revised Code defines this Board's jurisdiction as:

(A) The state personnel board of review shall exercise the following powers and perform the following duties:

(1) Hear appeals, as provided by law, of employees in the **classified state service** from final decisions of appointing authorities or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under

division (D) of section 124.14 of the Revised Code. As used in this division, "discharge" includes disability separations. (Emphasis added).

Section 124.01(B) of the Ohio Revised Code defines "state service" as

(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state. "State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.

As can be seen from reading the above statutes, the Appellee does not fit the definition of "state service". Appellee, whose proper name is the Champaign Countywide Safety Communications Systems Council of Governments, was formed by a joint agreement between Champaign County and the City of Urbana. It is operated pursuant to a set of By-laws and is governed by two separate Boards, the Fiscal Management Board and the Operations Board. The Fiscal Management Board is the hiring authority and in consultation with the Operations Board, determines the compensation of the employees. The employees are at-will employees and are not subject to the civil service laws of Ohio. An affidavit of Mindy North, Director of Appellee, was attached as Exhibit A to Appellee's Motion to Dismiss. Also attached were the By-Laws, marked as Exhibit B.

Since Appellee is funded through both county and city funds, it is not a county agency over which this Board possess jurisdiction. It is known as a "hybrid" organization that is neither a state nor county agency and therefore, pursuant to the above statutes, it does not fall under this Board's jurisdiction. *Crawford v. Paulding Soil & Water Conservation Dist.*, (Nov.9, 1988) PBR 88-REM-08-0450; aff'd (Nov. 25, 1988).

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Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** due to a lack of subject matter jurisdiction pursuant to section 124.03 of Ohio Revised Code.

Marcie M. Scholl

Marcie M. Scholl
Administrative Law Judge

:mms