

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

ARWYN HOPKINS,

Appellant,

v.

Case No. 12-REM-12-0262

FRANKLIN COUNTY LAW LIBRARY,

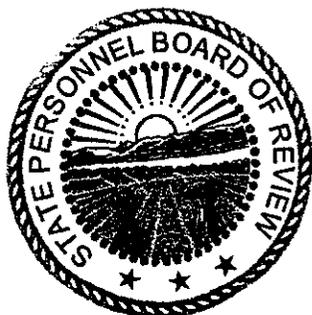
Appellee

ORDER

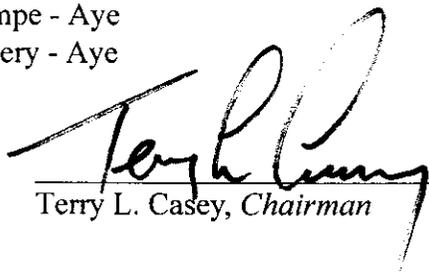
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 the appeal is **DISMISSED** for lack of jurisdiction over the subject matter of this appeal pursuant to Ohio Revised Code Sections 124.11 (A)(7)(b) and 307.51 (C).



Casey - Aye
Lumpe - Aye
Tillery - Aye



Terry L. Casey, *Chairman*

CERTIFICATION

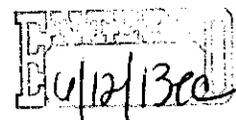
The State of Ohio, State Personnel Board of Review, ss:

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, June 12, 2013.



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**

Arwyn Hopkins,

Case No. 12-REM-12-0262

Appellant

v.

February 6, 2013

Franklin Co, Law Library,

Christopher R. Young

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on February 6, 2013, upon Appellee's Motion to Dismiss filed on January 15, 2013, and upon Appellant's Response to Appellee's Motion to Dismiss filed on January 18, 2013. In essence, the Appellee is asserting in its motion to dismiss that the Appellant was serving as an unclassified employee, in the unclassified service pursuant to Ohio Revised Code section 124.11 (A)(7)(b) and/or Ohio Revised Code section 307.51 (C). On the other hand, the Appellant has asserted in her response to dismiss Appellee's request for dismissal and to proceed with its investigation as the State Personnel Board of Review can elect to here complaints from unclassified employees.

It should be noted that the Appellant in the case at hand only filed an appeal of her removal on about December 28, 2012, and did not request an investigation in this matter. Further, it should be noted pursuant to the information contained within the case the Appellant references allegations to racial and sexual harassment, topics which are more appropriate covered under the Ohio Civil Rights Commission, a body politic which she has already filed a complaint. Additionally, it appears from the filings in the case that the Appellant has indeed filed a complaint with the US Equal Employment Opportunity Commission (EEOC), as well.

For clarification, this appeal arose after the Appellant, Ms. Arwyn Hopkins, who was hired in February 2010, and was removed from her position as a Library Assistant on December 18, 2012, from the Franklin County Law Library without an Ohio Revised Code section 124.34 Order of Removal. Again, the Appellant timely appealed her removal to this Board on December 28, 2012. As was previously mentioned, the Franklin County Law Library has moved this Board to dismiss Ms.

Hopkins' appeal in this matter on the basis that this Board lacks jurisdiction, as Ms. Hopkins was removed from an unclassified position. The Appellee has asserted that Ms. Hopkins was a member of the unclassified service pursuant to Ohio Revised Code sections 124.11(A)(7)(b) and/or 307.51(C).

Specifically, Ohio Revised Code Section 124.11 (A)(7)(b), reads in pertinent part:

124.11 Unclassified service - classified service.

The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service.

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(7) (b) The library staff of any library in the state supported wholly or in part at public expense.

Moreover, Ohio Revised Code Section 307.51(C), reads in pertinent part:

307.51 County law library resources board.

(C) The board shall employ a county law librarian who shall be the chief administrator of the county law library resources board and may employ additional staff to perform any functions as determined by the board. The board shall fix the compensation of the county law librarian and any additional employees. **All employees of the county law library resources board shall be in the unclassified civil service of the county.** (Emphasis added).

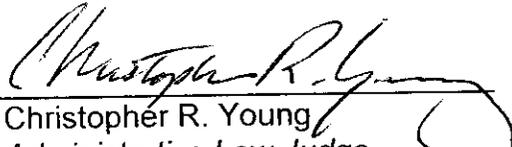
Additionally, it should be noted that the "unclassified service" is defined by Ohio Administrative Code Section 123:1-47-01 (82) to mean:

(82) "Unclassified service" – Means all offices and positions which are exempt from all examinations and which provide no tenure under the law are unclassified. Appointment to a position in the unclassified service may be made at the discretion of the appointing authority and the incumbent may be removed, suspended or reduced from the position at the pleasure of the appointing authority. (Emphasis added)

As was referenced in Appellee's motion to dismiss County law libraries are governed by Ohio Revised Code Sections 307.51 through 307.62 and are referred to as "law library resources boards." The Appellee, the Franklin County Law Library is a law library resources board as evidenced by Appellee's Exhibit 1, containing the affidavit of Mr. Keith Blough, the Director of the Franklin County Law Library. As such, as can be seen through a simple reading of the above noted statute, Ohio Revised Code Section 307.51(C) Ms. Hopkins as an employee of the Franklin County Law Library served as an unclassified employee in her position as a Library Assistant.

Further, based upon the appropriation of public monies to the Franklin County Law Library pursuant to Ohio Revised Code Sections 307.513 through 307.515, Ms. Hopkins' position must also be considered an unclassified position pursuant to Ohio Revised Code Section 124.11 (A)(7)(b).

Consequently, as this Board has jurisdiction only over classified employees, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's Motion to Dismiss and **DISMISS** this appeal for lack of jurisdiction over the subject matter of this appeal pursuant to Ohio Revised Code Sections 124.11 (A)(7)(b) and 307.51(C).


Christopher R. Young
Administrative Law Judge

CRY: