

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

Ladonna Zocolo,

Appellant,

v.

Case No. 2013-ABL-10-0271

Youngstown State University,

Appellee,

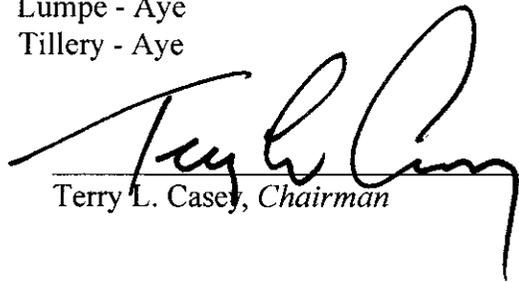
ORDER

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 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**. Appellant has suffered no adverse employment action for which this Board could offer a remedy.

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, July 30, 2014.



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**

Ladonna Zocolo

Case No. 2013-ABL-10-0271

Appellant

v.

June 19, 2014

Youngstown State University

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 Appellee's Motion to Dismiss, filed on April 22, 2014 and Appellant's Reply Brief to Appellee Youngstown State University's Motion to Dismiss, filed on May 14, 2014.

As the record reflects, Appellant Zocolo was employed by Appellee as a part-time Account Clerk 2 prior to her job abolishment. She was given proper and timely notice of her job abolishment and chose to exercise her displacement rights. By exercising her displacement rights, Appellant Zocolo was able to displace into another part-time Account Clerk 2 position. By doing so, she did not suffer any adverse employment action, as she remained in the same classification, retained the same pay and the same shift. Even if the hearing were to go forward and the job abolishment would be disaffirmed by this Board, there would be no remedy to offer Appellant Zocolo. If the abolishment were to be disaffirmed, the only remedy the Board could offer would be to reinstate Appellant Zocolo to her position. Since she displaced into the same classification she held prior to her job abolishment, without any loss of pay, seniority, or shift, there would be nothing to gain by going to a hearing, as once again, even if she prevailed at hearing, she would not be in any better position than she currently is in.

While Appellant Zocolo argues in her brief that the job abolishment was not in accordance with the procedures found in the Ohio Revised Code for the implementation of job abolishments, that argument is moot. In evaluating the case in the best light for Appellant, and assuming she would prove at hearing that the job

abolishment should be disaffirmed, there is still no remedy that this Board can offer her which would place her in a better position than the position that she is currently in. The case is essentially moot. Black's Law Dictionary, Fifth Edition, 1979, offers the following definitions of the term "moot":

A subject for argument; unsettled; undecided. A moot point is one not settled by judicial decision.

A case is 'moot' when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy. *Leonhart v. McCormick*, D.D.Pa., 395 F.Supp. 1073, 1076. Question is 'moot' when it presents no actual controversy or where the issues have ceased to exist. *Matter of Lawson's Estate*, 41 Ill.App.3d 37, 353 N.E.2d 345, 347.

Generally, an action is considered 'moot' when it no longer presents a justiciable controversy because issues involved have become academic or dead. *Sigma Chi Fraternity v. Regents of University of Colo.*, D.C.Colo., 258 F.Supp. 515, 523. . . .

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** as Appellant Zocolo did not suffer any adverse employment action of which this Board could offer her a remedy if she were to prevail at hearing, rendering this case moot as there is no justiciable issue before the Board.



Marcie M. Scholl
Administrative Law Judge