

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

Steven C. Elliott,

*Appellant,*

v.

Case No. 2013-IDS-02-0053

Department of Youth Services, Central Office,

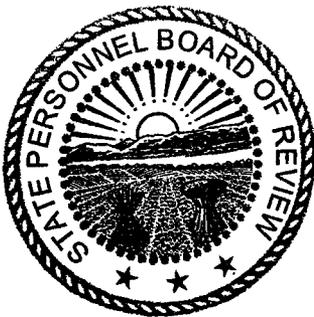
*Appellee.*

**ORDER**

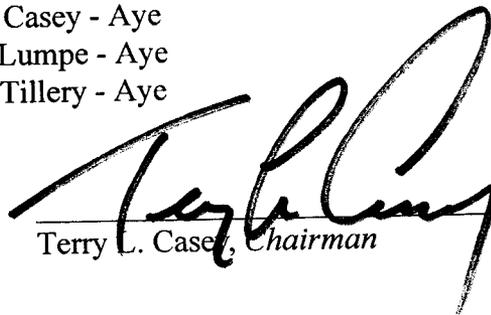
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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**.



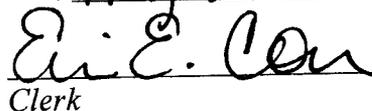
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
Terry L. Casey, *Chairman*

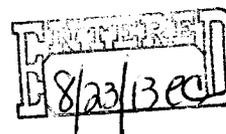
**CERTIFICATION**

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, August 23, 2013.

  
Eric 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**

Steven C. Elliott,

Case No. 2013-IDS-02-0053

*Appellant*

v.

July 9, 2013

Department of Youth Services,  
Central Office

Jeannette E. Gunn  
*Administrative Law Judge*

*Appellee*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on for consideration pursuant to Appellee's Motion to Dismiss, filed with this Board on June 24, 2013. Appellee requests that this Board dismiss the instant appeal; Appellant filed no memorandum *contra*.

Appellant was involuntary disability separated from his position as a Human Capital Management Senior Analyst, effective February 10, 2013. Uncontroverted information contained in the record indicates that Appellant applied for and received Temporary Total Compensation (TTC) benefits from the Bureau of Workers Compensation for the period of October 7, 2012, through May 4, 2013, as the result of injuries sustained through the course of his employment.

If this Board were to hold a hearing pursuant to Appellant's appeal, Appellant would be required to present evidence that he was ready, willing and able to perform the essential duties of his position as of the effective date of his involuntary disability separation, February 10, 2013. Since Appellant has previously represented to the Bureau of Workers Compensation that he was totally disabled on the date he was disability separated and has received money from workers' compensation due to his inability to work during that time period, it would be fraudulent for Appellant to now argue that he actually could have worked as of that date.

Therefore, because Appellant represented to the Bureau of Workers Compensation in conjunction with his claim for TTC benefits that he was unable to work as of the date he was disability separated and received benefits for that time

Steven C. Elliott  
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and beyond, he may not now claim in good faith that he was capable of performing the essential duties of his position as Human Capital Management Senior Analyst as of February 10, 2013.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED**. Any attendant disputes regarding notification or rescheduling of Appellant's January 2013 pre-separation hearing are **MOOT**.

  
Jeannette E. Gunn  
Administrative Law Judge

JEG: