

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

Al Crawford,

Appellant,

v.

Case No. 2013-IDS-07-0180

Department of Education,

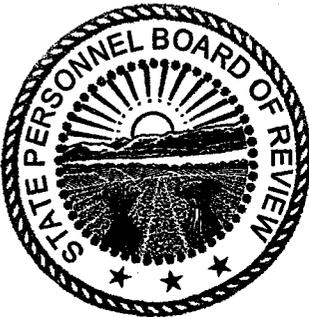
Appellee,

ORDER

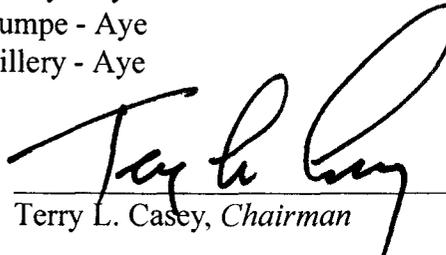
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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**.



Casey - Aye
Lumpe - Aye
Tillery - Aye

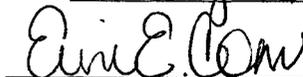


Terry L. Casey, *Chairman*

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, May 16, 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**

Al Crawford

Case No. 2013-IDS-07-0180

Appellant

v.

February 6, 2014

Department of Education

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon a review of the information contained in the record. Appellee filed a Motion to Dismiss with this Board on November 25, 2013; Appellant did not file a memorandum *contra*.

Appellant filed a timely notice of appeal from his involuntary disability separation, effective July 12, 2013. In Appellee's Motion to Dismiss, Appellee asserts that Appellant was receiving disability benefits on the date of his pre-separation hearing, June 24, 2013. In order to receive disability benefits, an employee must demonstrate that he is "medically incapable of performing the job duties" of his position. O.A.C. 123:1-33-01.

Were the above-referenced matter to proceed to record hearing, the question to be answered would be whether or not Appellant was capable of performing the essential duties of his position as of the date of his pre-separation hearing. It would be fraudulent for Appellant to argue to this Board that he could perform his duties as of June 24, 2013, and at the same time, collect disability leave benefits.

Therefore, based on the above rationale, it is my **RECOMMENDATION** that Appellee's Motion to Dismiss be **GRANTED** and this appeal be **DISMISSED**.


Jeannette E. Gunn
Administrative Law Judge