

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

William W. Bates,

Appellant,

v.

Case No. 2013-IDS-07-0197

Department of Mental Health and Addiction Services,
Athens County Appalachian Behavioral Healthcare Hospital,

Appellee.

ORDER

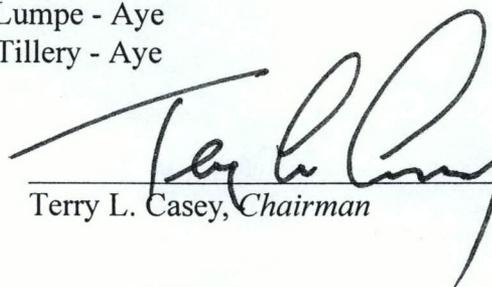
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 appeal is **DISMISSED** due to a lack of a justiciable issue.



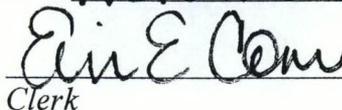
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, November 07, 2013.


Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

ENTERED
11-7-13cc

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

William W. Bates,

Case No. 2013-IDS-07-0197

Appellant

v.

October 10, 2013

Athens County Appalachian Behavioral Healthcare Hospital
Department of Mental Health and Addiction Services

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on October 10, 2013, upon Appellee's Response to this Board's questionnaire, filed on September 27, 2013. Appellant Bates had ten days to file an optional reply and to date, no reply has been received from Appellant Bates.

Appellee's response to the questionnaire indicates Appellant Bates was placed on involuntary disability separation effective July 24, 2013. Attached to the response to the questionnaire is a printout showing Compensation Payment History from the Bureau of Workers Compensation. That document evidences that as of July 24, 2013, Appellant Bates was receiving Temporary Total benefits from Workers Compensation. The document also evidences that Appellant Bates has been receiving Temporary Total benefits covering the period of March 19, 2013 through September 21, 2013.

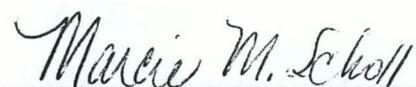
If this Board were to conduct a hearing on Appellant Bates' appeal of being placed on involuntary disability separation, the evidence that this Board would be looking at is if Appellant Bates could perform the essential duties of his position as of the effective date of the involuntary disability separation, or July 24, 2013. The answer to that question has to be "NO" as he was receiving Temporary Total benefits from the Bureau of Workers Compensation as of that date. For Appellant Bates to come before this Board and argue that he could perform the essential

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duties of his position while at the same time collecting benefits from the Bureau of Workers Compensation would be tantamount to fraud.

At such time as Appellant Bates is released from a doctor to return to work, he can apply for reinstatement with Appellee and if he is denied reinstatement, then he can appeal such denial of reinstatement to this Board.

Inasmuch as Appellant Bates was receiving Temporary Total workers compensation benefits as the effective date of his involuntary disability separation, it is my **RECOMMENDATION** that this appeal be **DISMISSED** due to a lack of a justiciable issue.



Marcie M. Scholl

Administrative Law Judge

:mms