

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Christina Latynski,

Appellant,

v.

Case Nos. 2013-TFR-08-0232
2013-INV-08-0233

Auditor of State,

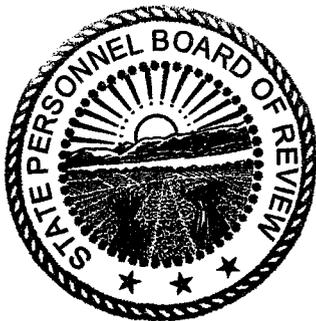
Appellee,

ORDER

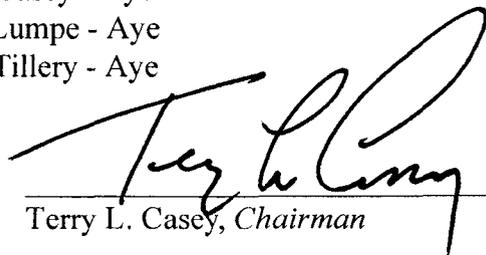
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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. The parties should note that this Board cannot designate an employee's Headquarters County. The parties should also note that the Department of Administrative Services considers certain classifications of positions to be inherently mobile, pursuant to O.A.C. 123:1-25-01 (I), and, thus, not subject to a transfer appeal.

Wherefore, it is hereby **ORDERED** that the instant appeal be **DISMISSED** for untimely filing and for lack of jurisdiction over its subject matter and that the instant request for investigation be **DISMISSED** for lack of jurisdiction over its subject matter, pursuant to R.C. 124.03, R.C. 124.32, R.C. 124.33, and R.C. 124.56.



Casey - Aye
Lumpe - Aye
Tillery - Aye

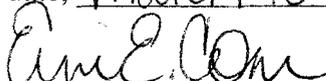


Terry L. Casey, *Chairman*

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, March 18, 2014.



Clerk

3/18/14

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**

Christina Latynski

Appellant

v.

Auditor of State

Appellee

Case Nos. 2013-TFR-08-0232
2013-INV-08-0233

January 29, 2014

James R. Sprague
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These matters came on for consideration upon Appellant's August 27, 2013 filing of an appeal and a request for an investigation concerning Appellee's re-location of Appellant's reporting post. The records reflect that Appellant's duties, classification (Assistant Auditor 3), Headquarters County (Jefferson), and appointing authority (Auditor of State) did not change with this reporting re-location.

On January 9, 2014, Appellee filed Appellee's motion to dismiss, memorandum in support, accompanying documents, and the Affidavit of Cindy Sovell-Klein, Appellee's Director of Human Resources. Appellee's attachments number well over 40 pages. Appellant was provided with the requisite time to file a memorandum *contra* to Appellee's motion to dismiss but, to date, has not done so.

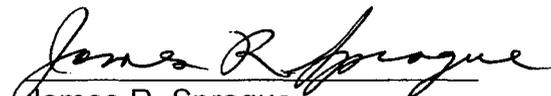
O.A.C. 124-11-07 (A) (2) indicates that when a properly supported motion to dismiss had been filed, the opposing party must then set forth specific facts showing there is a genuine issue in dispute. O.A.C. 124-11-07 (C) indicates that the opposing party must file a response to a properly filed and supported motion to dismiss within 10 calendar days of service of the motion.

Here, Appellant has failed to file her response to Appellee's motion to dismiss. Further, it appears that Appellee's motion to dismiss has merit. This is because it appears that Appellant's appeal was not timely filed with this Board. Further, it appears that Appellant was not the subject of an appealable transfer to this Board; since neither Appellant's Headquarters County, classification, job duties,

Christina Latynski
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nor appointing authority changed with her change in reporting location. Accordingly, the instant appeal should be dismissed and the instant request for an investigation should also be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** Appellant's transfer appeal as untimely filed and otherwise for lack of jurisdiction over its subject matter and further **RECOMMEND** that the State Personnel Board of Review **DISMISS** Appellant's request for an investigation for lack of jurisdiction over its subject matter, pursuant to R.C. 124.03, R.C. 124.32, R.C. 124.33, and R.C. 124.56.


James R. Sprague
Administrative Law Judge