

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

BRENDA ALLEN,

Appellant

v.

Case No. 13-REM-01-0026

MIAMI UNIVERSITY,

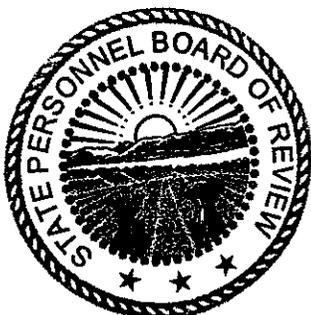
Appellee

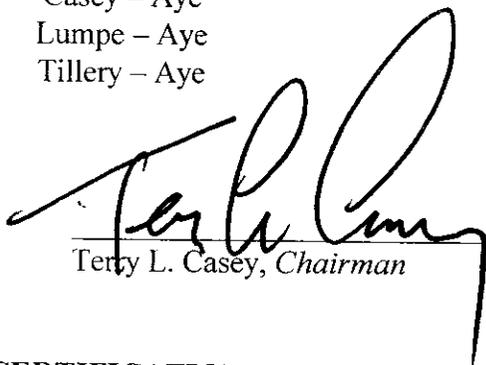
ORDER

This matter came on for consideration before the full Board. Based upon the reasoning set forth in the Board's Opinion attached hereto, the Board hereby disaffirms the Order of Removal.

Wherefore, it is hereby **ORDERED** that Appellant's Order of Removal be **DISAFFIRMED** for the reasons set forth in the Board's Opinion attached hereto.

Casey – Aye
Lumpe – Aye
Tillery – Aye

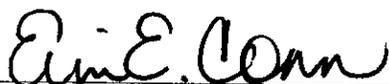



Terry L. Casey, *Chairman*

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 the foregoing is ~~(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 29, 2013.


Aimee E. Conn
Clerk

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

ENTERED
5/29/13

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Appellee

OPINION

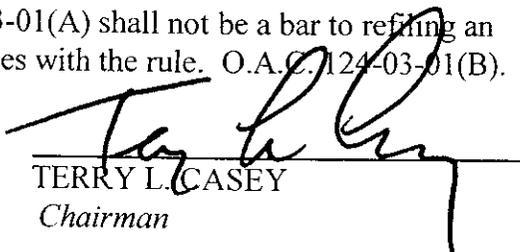
Appellant was removed pursuant to an R.C. 124.34 Order of Removal. However, the Order was defective in the following manner:

Ohio Administrative Code Section 124-03-01(A) requires that before an Order may be affirmed, the appointing authority must satisfy the following:

- (1) The copy of the order served on the employee shall bear the original signature of the appointing authority and the date of signature. If an appointing authority is a public body, the order must contain the signatures of a majority of the members, or in the alternative, a certified copy of the resolution adopting the order shall be attached to each copy of the order; and
- (2) The employer shall serve the employee with a copy of the order on or before the effective date of the action; and
- (3) The order shows, on its face, a list of particulars which form the basis for the order; and
- (4) The appointing authority can, if challenged, demonstrate both the authority of the signer and the authenticity of the signature on a "section 124.34 order" or an order of involuntary disability separation.

The appointing authority has failed to comply with Ohio Administrative Code Section 124-03-01(A)(2) by not serving the R.C. 124.34 Order of Removal upon Appellant until December 22, 2013, which was one day after the effective date of the Order. Additionally, Appellant was incorrectly advised of her appeal rights. The Order of Removal states that she may appeal to the State Employment Relations Board rather than the State Personnel Board of Review.

Therefore, the R.C. 124.34 Order of Removal is DISAFFIRMED. Disaffirmance of an R.C. 124.34 Order of Removal under O.A.C. 124-03-01(A) shall not be a bar to refileing an Order, based upon the same incidents, which complies with the rule. O.A.C. 124-03-01(B).


TERRY L. CASEY
Chairman