

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

TIMOTHY WILEY,

Appellant,

v.

Case No. 13-REM-02-0056

KNOX COUNTY BOARD OF COMMISSIONERS,

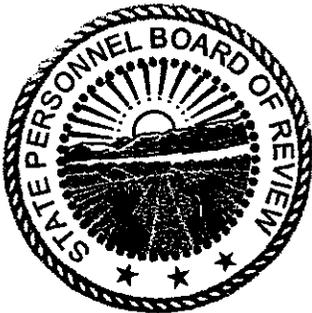
Appellee

ORDER

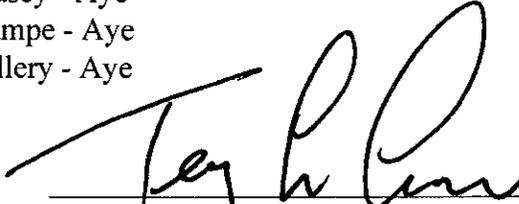
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 is **GRANTED** and the appeal is **DISMISSED** as moot, pursuant to Ohio Revised Code Sections 124.03 and 124.34.



Casey - Aye
Lumpe - Aye
Tillery - Aye

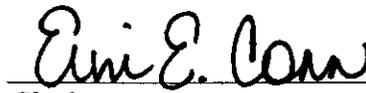


Terry L. Casey, *Chairman*

CERTIFICATION

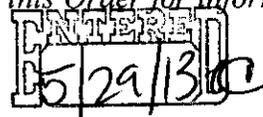
The State of Ohio, State Personnel Board of Review, ss:

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 29, 2013.



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**

TIMOTHY WILEY,

Case No. 13-REM-02-0056

Appellant

v.

April 3, 2013

KNOX COUNTY BOARD OF COMMISSIONERS,

Appellee

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's February 7, 2013 filing of an appeal to protest his removal from his position of Driver/Dispatcher with Appellee's Knox County Transit Board, which removal was effective February 1, 2013. On March 13, 2013, Appellee fax filed Appellee's motion to dismiss, memorandum in support, and accompanying documents. Appellant was provided with an extended time to file a memorandum *contra* but, to date, has not done so.

In its memorandum in support at p. 2, Appellee asserts that Appellant was initially removed on February 1, 2013 but no R.C. 124.34 Order was issued concerning that removal. Appellee further asserts, at p 2, because no R.C. 124.34 Order was issued concerning Appellant's February 1, 2013 removal, Appellee reinstated Appellant, placed him on paid administrative leave, and compensated him for any due wages. Appellee also asserts at p. 2:

... on March 4th, 2013, Mr. Wiley was called upon to meet with the Employer for another work-related issue. During this meeting, Mr. Wiley submitted a voluntary resignation which the Employer accepted.

Appellee has also provided documentation to substantiate these assertions. Further, since Appellant has not responded to Appellee's motion to dismiss, Appellee's assertions remain unrebutted in the record and are hereby taken as fact in this matter.

Additionally, Appellee is correct when it asserts, at p. 2:

Chapter 124 of the Ohio Revised Code and Chapter 124 of the Ohio Administrative Code provide the process for removal of classified civil service employees. Failure to serve a classified employee with an Order of Removal is grounds for appeal. R.C. 124.34; O.A.C. 124-3. While the Employer concedes it did not comply with the statutory process, because the employee was reinstated and compensated for any due wages, the case is now moot. As noted above, the Appellant also resigned from employment.

Since it is un rebutted in the record that Appellant was reinstated to employment retroactive to the effective date of his removal, was placed on paid administrative leave, was compensated for any due wages, and thereafter resigned, I find that the instant appeal is now moot. Accordingly, it should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** this appeal as **MOOT**, pursuant to R.C. 124.03 and R.C. 124.34.


JAMES R. SPRAGUE
Administrative Law Judge

JRS: