

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

Sharon McGowan,

*Appellant,*

v.

Case No. 2013-REM-04-0117

Department of Job & Family Services,

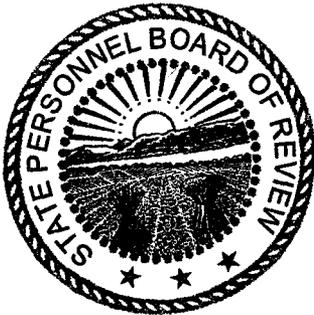
*Appellee,*

**ORDER**

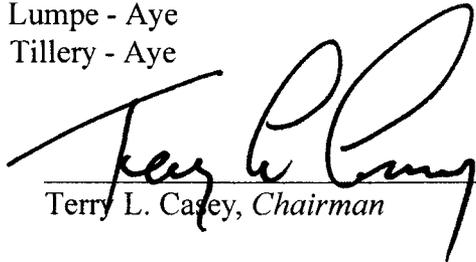
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** for lack of jurisdiction pursuant to sections 124.03 and 4117.10 of the Ohio Revised Code.



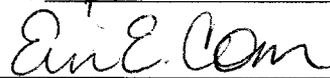
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
\_\_\_\_\_  
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, April 07, 2014.

  
\_\_\_\_\_  
Clerk

4-8-14

**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**

Sharon McGowan

Case No. 2013-REM-04-0117

*Appellant*

v.

October 10, 2013

Department of Job & Family Services

*Appellee*

Marcie M. Scholl  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration on October 10, 2013, upon Appellee's Motion to Dismiss for Lack of Jurisdiction, filed on August 27, 2013. Appellee contends this matter is properly resolved through the grievance procedure pursuant to a collective bargaining agreement and this Board lacks jurisdiction to consider the matter. Appellant did not file a memorandum *contra*.

I find that the Appellant was classified as a Customer Service Representative. The Customer Service Representative classification is included in a bargaining unit which is represented by the Ohio Civil Service Employees Association (OCSEA). Appellee Department of Job & Family Services and OCSEA have signed a collective bargaining contract, which covers the Appellant's bargaining unit.

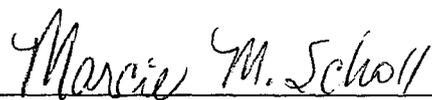
The above contract provides a grievance procedure resulting in final and binding arbitration. Ohio Revised Code Section 4117.10(A) states that where a bargaining agreement provides a grievance procedure which culminates in final and binding arbitration, the State Personnel Board of Review has no jurisdiction. This Board is, therefore, without jurisdiction to hear the instant appeal.

Additionally, Appellant McGowan voluntarily submitted a letter of resignation to Appellee, but before the resignation took effect, she announced her retirement. (See Exhibits A and B, affidavit of Tamica Gardner attached to Appellee's Motion to Dismiss). This Board has only the jurisdiction granted to it by statute. Section 124.03 of the Ohio Revised Code states the jurisdiction of this Board and that

Sharon McGowan  
Case No. 13-REM-04-0117  
Page 2

statute does not confer jurisdiction on this Board to review a voluntary resignation or a retirement of an employee. Therefore, this Board is without jurisdiction to hear an appeal of a voluntary resignation and/or retirement.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of jurisdiction pursuant to sections 124.03 and 4117.10 of the Ohio Revised Code.

  
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Marcie M. Scholl  
*Administrative Law Judge*

:mms