

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

Angela Lawrence,

*Appellant,*

v.

Case Nos. 2013-SUS-06-0134  
2013-REM-06-0135

Wright State University,

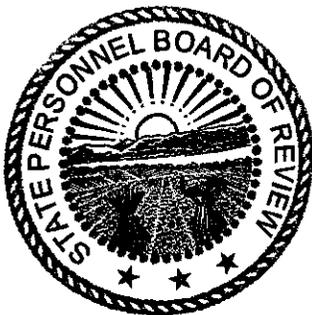
*Appellee,*

**ORDER**

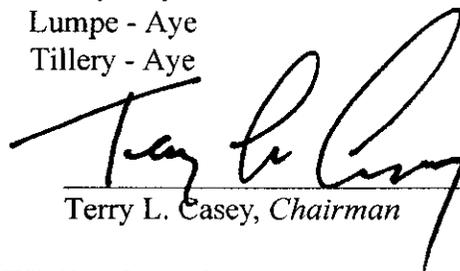
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the entirety of the records, 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 in Case No. 2013-SUS-06-0134 is **GRANTED** and that appeal is **DISMISSED** for lack of jurisdiction over a suspension of 20.4 hours, pursuant to R.C. 124.03 and R.C. 124.34. It is further ordered that Appellee's motion in Case No. 2013-REM-06-0135 is **GRANTED** and that appeal is **DISMISSED** for Appellant's failure to prosecute her appeal, pursuant to R.C. 124.03 and O.A.C. 124-11-19 (A).



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, June 04, 2015.

  
\_\_\_\_\_  
*Clerk*

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

## NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

**IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD.** Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

**METHOD OF PAYMENT:** for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

**IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE June 11, 2015.** You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

**If you have any questions regarding this notice, please contact the Board at 614/466-7046.**

Case Numbers: 2013-SUS-06-0134 and 2013-REM-06-0135

Transcript Costs: N/A Administrative Costs: \$25.00

Total Deposit Required: \* \$25.00

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: June 19, 2015

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

Angela Lawrence

*Appellant*

v.

Wright State University

*Appellee*

Case Nos. 2013-SUS-06-0134  
2013-REM-06-0135

May 4, 2015

James R. Sprague  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

These matters came on for consideration due to Appellant's filing of an appeal of her five-day (20.4 hour) suspension from her part-time position of Office Assistant 1 with Appellee's Department of English Language and Literature (*i.e.* **Case No. 2013-SUS-06-0134**) and due to Appellant's filing of an appeal of her subsequent removal from that same part-time position (*i.e.* **Case No. 2013-REM-06-0135**). The records in these two cases were then extensively developed. The parties attended a pre-hearing in these matters, held several telephone conferences, and appear to have exchanged a number of e mails. Indeed, it appeared that the parties had amicably resolved their differences regarding these matters. Yet, they were ultimately unable to effectuate the tentative settlement that they had negotiated.

Thus, Appellant's removal case proceeded to record hearing. A hearing was scheduled to take place before this Board on May 4, 2015 at 10:00 a.m. Appellee appeared before the Board at that time and was represented by Matthew J. Karam and Erin E. Butcher, Assistant Attorneys General. Appellant failed to appear and Appellee moved to dismiss that appeal.

The record in Case No. 2013-REM-06-0135 reflects that on May 4, 2015, at approximately 9:35 a.m., Appellant contacted a staff representative of this Board and Appellant indicated that she was ill and would not be at the hearing scheduled for 10:00 a.m. At approximately 9:45 a.m., Appellant left a voice mail reiterating that fact.

Angela Lawrence

Case Nos. 2013-SUS-06-0134 and 2013-REM-06-0135

Page 2

I find notice of the hearing was properly served on Appellant on February 5, 2015, by regular mail. Further, following Day 1 of hearing in Appellant's removal appeal (held on February 2, 2015), the parties jointly agreed that Day 2 and Day 3 of the removal appeal were to be set for May 4, 2015 and May 5, 2015. This was in part to accommodate Appellant's current work schedule which apparently necessitates her frequently being out of town on business.

I note that Appellee's counsel and its witnesses appeared on May 4, 2015 and were ready to proceed. Appellant was unquestionably aware of and had agreed to the May 4, 2015 hearing date. As well, it would have been entirely possible for Appellant to have alerted this Board of her apparent illness in time so that this Board could have apprised Appellee's counsel and its witnesses of same; to avoid the witnesses' driving to Columbus from Dayton. Taking all the facts and circumstances into account, I cannot find that good cause has been shown for Appellant's failure to appear on May 4, 2015 for her hearing. Accordingly, Appellee's motion to dismiss Case No. 2013-REM-06-0135 should be granted.

Additionally, Appellee has pending a motion to dismiss in Case No. 2013-SUS-06-0134. That appeal was from a five-day suspension. Appellant was a part-time employee of Appellee and worked 20.4 regular hours a week. Thus, her particular 20.4-hour suspension does not meet this Board's jurisdictional threshold set forth in R.C. 124.34 (*i.e.* a suspension of greater than 24 hours for an FLSA-overtime eligible employee). Accordingly, Appellee's motion to dismiss Case No. 2013-SUS-06-0134 should also be granted.

### RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that Appellee's motion in Case No. 2013-SUS-06-0134 be **GRANTED** and that appeal be **DISMISSED** for lack of jurisdiction over a suspension of 20.4 hours, pursuant to R.C. 124.03 and R.C. 124.34. I further **RECOMMEND** that Appellee's motion in Case No. 2013-REM-06-0135 be **GRANTED** and that appeal be **DISMISSED** for Appellant's failure to prosecute her appeal, pursuant to R.C. 124.03 and O.A.C. 124-11-19 (A).

Angela Lawrence  
Case Nos. 2013-SUS-06-0134 and 2013-REM-06-0135  
Page 3

A handwritten signature in black ink, reading "James R. Sprague". The signature is written in a cursive style with a horizontal line underneath the name.

James R. Sprague  
*Administrative Law Judge*