

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

Jessica Welker,

Appellant,

v.

Case No. 2013-REM-08-0196

Mercer County WIA/One Stop,

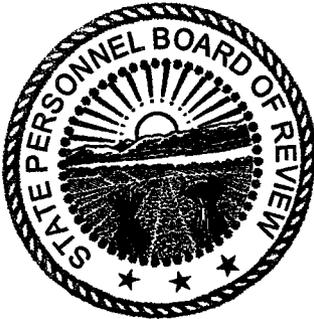
Appellee,

ORDER

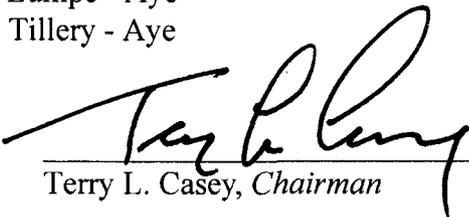
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 to Dismiss is **GRANTED** and the appeal is **DISMISSED** for lack of jurisdiction pursuant to R.C. 124.27(B).



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 13, 2014.


Clerk

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

3/14/14

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

Jessica Welker

Case No. 2013-REM-08-0196

Appellant

v.

February 7, 2014

Mercer County WIA/One Stop

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellee's Motion to Dismiss, filed with the Board on November 8, 2013; Appellant's Memorandum in Opposition to Appellee's Motion to Dismiss, filed on December 9, 2013; and Appellee's Reply to Appellant's Memorandum, filed on January 2, 2014.

Appellee argued in its initial Motion that Appellee is not an entity subject to civil service laws and was not Appellant's appointing authority at the time of her removal. Appellee argued in the alternative that Appellant was a probationary, unclassified employee who lacked the right to appeal to SPBR. Appellant argued in opposition that all of Appellee's employees are Mercer County employees and subject to civil service laws. Appellant also argued that she was a classified employee and acknowledged that she was removed during the first half of her probationary period.

Uncontroverted information contained in the record indicates that Appellant was appointed to the position of Fiscal Officer by the Mercer County Commissioners in April 2013. The record further indicates that Appellant was removed from that position by the Commissioners on July 9, 2013, during the first half of her six-month probationary period. Pursuant to the provisions of Ohio Revised Code 124.27(B), there is no right of appeal to this Board of a removal or reduction which occurs during a probationary period. *Walton v. Montgomery County Welfare Department* (1982), 69 Ohio St.2d 58; *State ex rel. Rose v. Ohio Dept. of Rehabilitation and Correction* (2001), 91 Ohio St.3d 453. Accordingly, I find that this Board lacks

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jurisdiction to consider the instant appeal; the remaining arguments made by the parties are superfluous.

Therefore, I respectfully **RECOMMEND** that Appellee's Motion be **GRANTED** and this appeal be **DISMISSED** for lack of jurisdiction pursuant to R.C. 124.27(B).



Jeannette E. Gunn
Administrative Law Judge