

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

Taffnie D. Lent,

Appellant,

v.

Case No. 2013-REM-11-0296

Department of Mental Health,
Appalachian Behavioral Healthcare,

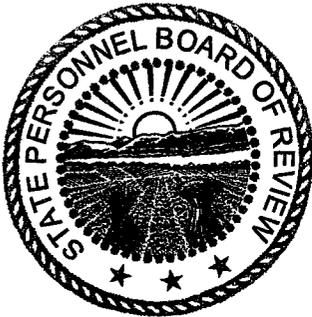
Appellee,

ORDER

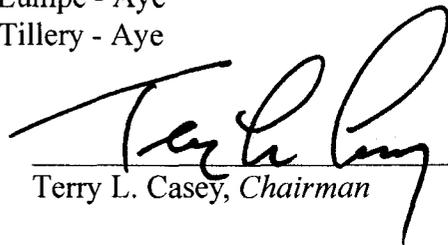
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 instant appeal is **DISMISSED** for untimely filing, pursuant to R.C. 124.34.



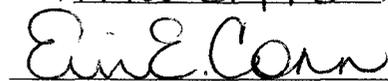
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, March 13, 2014.


Erin E. Conn
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**

Taffnie D. Lent

Case No. 2013-REM-11-0296

Appellant

v.

January 28, 2014

Department of Mental Health,
Appalachian Behavioral Healthcare

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 November 4, 2013 filing of an appeal with this Board from her removal from the position of Hospital Aide Supervisor with Appellee.

On January 13, 2014, Appellee filed Appellee's motion to dismiss, memorandum in support, and accompanying documents, including the Affidavit of Donovan Workman, the Human Resources Director for Appalachian Behavioral Healthcare. In Appellee's motion and supporting documents, Appellee alleges that Appellant received her copy of the pertinent R.C. 124.34 Order of Removal on October 11, 2013, but did not file her appeal with this Board until November 4, 2013, well past the statutory 10-day deadline for filing such an appeal.

Appellant was provided with the requisite time to file a memorandum *contra* to Appellee's motion to dismiss but, to date, has not done so.

O.A.C. 124-11-07 (A) (2) mandates that a party must file a response to a properly filed and supported motion to dismiss and that response must set forth facts showing there is a genuine issue in dispute. O.A.C. 124-11-07 (C) mandates that such a response must be filed with this Board and with the opposing party within 10 days of receipt of the motion to dismiss.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed within 10 calendar days following the date on which Appellant received her R.C. 124.34 Order of Removal. Further, Appellant has failed to comply with the filing requirements set forth in O.A.C. 124-11-07 (A) (2) and (C). Accordingly, the instant appeal should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the instant appeal for untimely filing, pursuant to R.C. 124.34.

A handwritten signature in cursive script that reads "James R. Sprague". The signature is written in black ink and is positioned above a horizontal line.

James R. Sprague
Administrative Law Judge