

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

Thomas W. Martin, Jr.,

Appellant,

v.

Case No. 2013-SUS-04-0102

Geauga County Board of Developmental Disabilities,

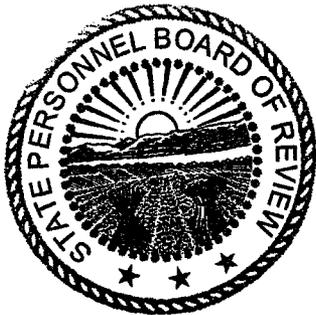
Appellee.

ORDER

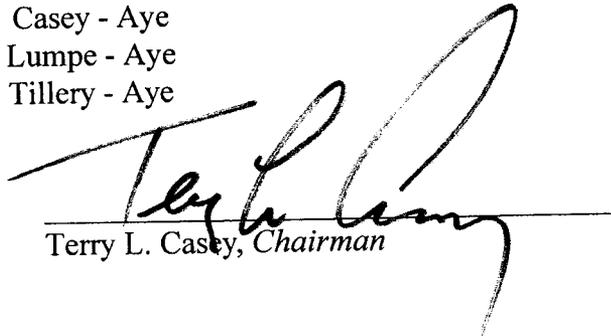
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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**.



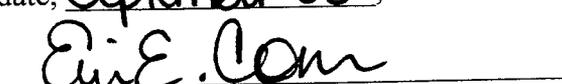
Casey - Aye
Lumpe - Aye
Tillery - Aye


Terry L. Casey, *Chairman*

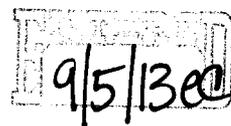
CERTIFICATION

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, September 05, 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**

Thomas W. Martin Jr,

Case No. 2013-SUS-04-0102

Appellant

v.

August 9, 2013

Geauga County Board of
Developmental Disabilities

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on pursuant to Appellee's Motion to Dismiss, filed with this Board on August 9, 2013. Appellee asserts that this Board is without jurisdiction to consider the appeal, due to its rescission of the seven-day working suspension previously imposed upon Appellant.

Information contained in the record indicates that Appellant initially received a ten-day disciplinary suspension, consisting of a three-day unpaid suspension and a seven-day working suspension or "suspension of record." In support of its Motion to Dismiss, Appellee provided this Board with a sworn affidavit from its Human Resource Coordinator indicating that Appellant's seven-day working suspension had been rescinded and that notification of such rescission had been provided to Appellant and placed in his personnel file. As a result of such modification, the only discipline which remains to form the basis of Appellant's appeal is the three-day unpaid suspension served by Appellant on April 24, May 1 and May 8, 2013.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions of more than three days, removals, reductions, layoffs and abolishments. Suspensions of three days or less are not appealable to the State Personnel Board of Review, pursuant to Ohio Revised Code Section 124.34. Only suspensions in excess of three days are appealable, see *Gillard v. Norris* (1988), 857 F.2d 1095;

Thomas W. Martin Jr
Case No. 2013-SUS-04-0102
Page 2

Rapier v. Darke County Board of Mental Retardation and Developmental Disabilities
(Mar. 10, 1993), Franklin Co., No. 92-CV-09-7589, unreported.

Therefore, because the discipline imposed upon Appellant has been modified to a three-day suspension, I find that this Board lacks jurisdiction to consider this matter and I respectfully **RECOMMEND** that Appellee's Motion to Dismiss be **GRANTED** and the appeal **DISMISSED**.


Jeannette E. Gunn
Administrative Law Judge