

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

Steven Lashaway,

*Appellant,*

v.

Case No. 2014-REC-10-0281

Bowling Green State University,

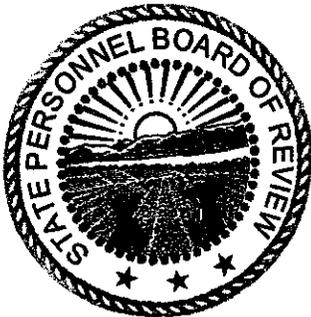
*Appellee,*

**ORDER**

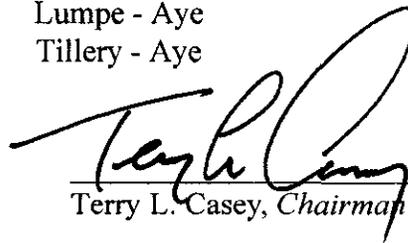
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 determination that Appellant's position is most properly classified as Senior Electrician, 52282, is **AFFIRMED**, pursuant to R.C. 124.03 and R.C. 124.14.



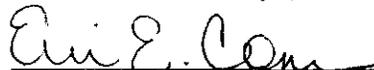
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
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 11, 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 March 18, 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 Number: 2014-REC-10-0281

Transcript Costs: \$108.00 Administrative Costs: \$25.00

Total Deposit Required: \* \$133.00

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: March 26, 2015

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

Steven Lashaway

Case No. 2014-REC-10-0281

*Appellant*

v.

February 9, 2015

Bowling Green State University

James R. Sprague

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This case came to be heard on January 27, 2015. Present at the hearing was Appellant, who appeared *pro se*. Appellee, Bowling Green State University (BGSU), was present through its designee, Viva McCarver, Associate Director of Human Resources. Those attending on behalf of Appellee also included Leslie Fern, Employee Relations Specialist, and Patrick Kelly, Compensation Analyst.

This cause comes on due to Appellant's October 31, 2014 timely filing of an appeal from a job audit determination issued and received on October 2, 2014. Appellant's position was classified as Senior Electrician, 52282 and no change resulted from the audit. The parties had discussed the classification of Building Maintenance Superintendent for Appellant's position; however, since Appellant does not supervise any employees, that classification was inapplicable to his position.

The parties agree that Appellant is essentially performing the duties set forth in the pertinent Senior Electrician specification. *The dispute in this matter arises because Appellant had asserted that he is performing duties that are at a higher level than those reflected in the "Benchmark Description"; adopted by BGSU for the predecessor class for Senior Electrician, namely Electrician 2.* (Please see Appellant's Exhibit 5 for the contents of the pertinent Benchmark Description for the classification of Electrician 2, 52282 and the text for "Electrical Skilled Trade-Intermediate").

Jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

**CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT**

At hearing, three witnesses testified.

First to testify was **Steven Lashaway**, Appellant. Mr. Lashaway has held a position classified as Senior Electrician (or its previous denomination of Electrician 2) for about 20 years. Appellant has been employed with BGSU for a little more than 30 years and currently works within the HVAC/Electric Shop under Campus Operations.

Next to testify was **Patrick Kelly**, who has served as a Compensation Analyst for BGSU for approximately 15 years. Mr. Kelly was the analyst who met with Appellant and reviewed the pertinent documents pertaining to BGSU's decision to keep Appellant's position in the Senior Electrician classification.

Last to testify was **Viva McCarver**, BGSU's Associate Director of Human Resources and its designee at hearing.

By way of background, BGSU began a Classification Project in August, 2012. BGSU also commissioned a market survey. The data from the survey were used to create Benchmark Descriptions, which were, in turn, used to update/modify BGSU's Pay Grades.

The Benchmark Descriptions were not used to create or amend BGSU's exempt Class Plan. One of the classes in that Class Plan, Senior Electrician, is the class assigned to Appellant's position.

As noted, above, the parties agree that Appellant's duties are, by and large, accurately reflected in the Senior Electrician specification. Further, Appellant and BGSU both sought to find other classes that might be applicable to his duties, including the Building Maintenance Superintendent class. Yet, as noted, Appellant was ineligible for that classification because he does not supervise any employees.

The record certainly reflects that BGSU has a high degree of confidence in the abilities and judgment of Appellant and that it appreciates his many years of high quality service. Further, Appellant is considered to be BGSU's subject matter expert in several areas including the placement and proper accessing of utility lines on BGSU property.

Based on the testimony presented and evidence admitted at hearing, I make the following Findings:

First, I note that I incorporate, herein, any finding set forth, above, whether express or implied.

Next, I find that Appellant performs the duties set forth in the Senior Electrician specification (as the parties have agreed). I further find that no other specification was identified that more closely matches Appellant's duties and for which Appellant is qualified, particularly since he does not supervise employees.

The undersigned can appreciate that Appellant perceives, likely correctly, that his duties and responsibilities appear to go beyond the boundaries of the pertinent Benchmark Description. Yet, those matters fall outside of this Board's review authority, as established in R.C. 124.03 and R.C. 124.14 and as set forth, below.

### CONCLUSIONS OF LAW

This case presents this Board with the question of whether an employee, whom all parties agree performs the duties of his class and for whom no better class can be found, may nonetheless request that this Board adjust his pay, based on the establishment of Benchmark Descriptions following the conclusion of a labor market survey? This Board lacks the authority to adjust Appellant's pay, outside of whatever adjustment might result from a reclassification of Appellant's position. Therefore, this Board should limit its actions to affirming Appellant's job audit determination and to issuing a final Order to that effect.

R.C. 124.03 generally sets forth the jurisdiction of this Board and states, in pertinent part:

A) The state personnel board of review shall exercise the following powers and perform the following duties:

(1) Hear appeals, as provided by law, of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, **assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under division (D) of section 124.14 of the Revised Code.** As used in this division, "discharge" includes disability separations.

The state personnel board of review may affirm, disaffirm, or modify the decisions of the appointing authorities or the director, as the case may be, and its decision is final. **The decisions of the state**

**personnel board of review shall be consistent with the applicable classification specifications. ...**

The state personnel board of review may place an exempt employee, as defined in section 124.152 of the Revised Code, into a bargaining unit classification, if the state personnel board of review determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, such placements are at the discretion of the state personnel board of review. ...

(2) Hear appeals, as provided by law, of appointing authorities from final decisions of the director relative to the classification or reclassification of any position in the classified state service under the jurisdiction of that appointing authority. The state personnel board of review may affirm, disaffirm, or modify the decisions of the director, and its decision is final. **The decisions of the state personnel board of review shall be consistent with the applicable classification specifications.** (emphasis added)

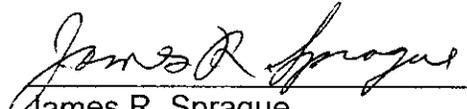
R.C. 124.14 also provides this Board with the authority to hear job audit appeals and states, in pertinent part:

An employee or appointing authority desiring a hearing [from a job audit determination] shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant. **As provided in division (A)(1) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit.** The board shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons. (emphasis added)

As can be seen from the above Revised Code provisions, this Board is to consider the evidence and determine the most appropriate classification for the position at issue. The above provisions do not give this Board the authority to change an employee's Pay Grade, where (as here) the employee's position has been assigned to the classification that most closely matches the employee's duties. Thus, this Board lacks authority to determine whether Appellant's Pay Grade should be adjusted; since it is undisputed that the most accurate available classification has already been assigned to his position.

### RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** Appellee's determination that Appellant's position is most properly classified as Senior Electrician, 52282, pursuant to R.C. 124.03 and R.C. 124.14.

  
James R. Sprague  
Administrative Law Judge

