

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Steven A. Wagner,

*Appellant,*

v.

Case No. 2014-REM-06-0122

Department of Health,

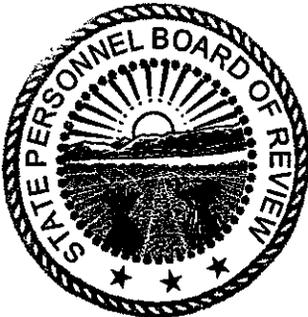
*Appellee,*

**ORDER**

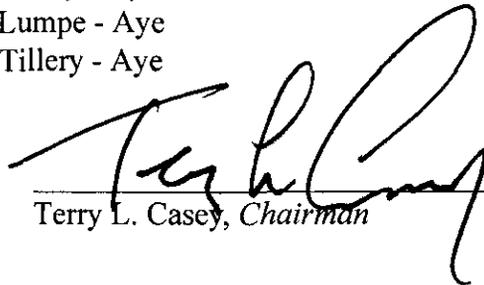
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 the matter is **DISMISSED** for lack of jurisdiction, pursuant to R.C. 124.03(A).



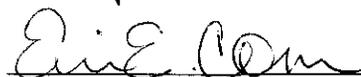
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
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, September 22, 2014.

  
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**

Steven A. Wagner,

Case No. 2014-REM-06-0122

*Appellant*

v.

August 18, 2014

Department of Health,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on pursuant to Appellant's timely appeal of his June 10, 2014, removal from employment with Appellee. On July 10, 2014, this Board issued a Procedural Order requiring Appellee to demonstrate the date on which Appellant received a notice of removal. Appellee filed its response, along with a Motion to Dismiss, with this Board on August 1, 2014, asserting that Appellant was in the unclassified service at the time of his removal from employment and that the Board was without jurisdiction to consider the appeal. Appellant filed no memorandum *contra*.

Uncontroverted evidence contained in the record indicates that Appellant occupied an unclassified Public Health Administrator position on June 10, 2014. Appellee revoked Appellant's unclassified appointment via hand-delivered letter on June 10, 2014. The instant appeal arises from Appellee's revocation of Appellant's unclassified appointment.

Appellant does not dispute that he was an unclassified employee at the time of the revocation of his appointment and his removal from employment with Appellee. Appellee produced supporting documentation to demonstrate that when Appellant accepted the Public Health Administrator position he received an increase in compensation and paid parking, and signed a waiver acknowledging that the position was unclassified, pursuant to R.C. 124.11(A)(9).

### CONCLUSIONS OF LAW

Civil service employment in the State of Ohio is divided into the classified and unclassified services. This Board does not generally possess subject matter jurisdiction over an appeal of an adverse job action brought by an unclassified employee, since Ohio Revised Code Section 124.03 limits this Board's jurisdiction to actions concerning classified employees. In the instant matter, I find that Appellant was an unclassified employee at the time of the revocation of his appointment. I further find that Appellant knowingly and voluntarily accepted his appointment to an unclassified position and enjoyed the benefits of that unclassified status. Accordingly, this Board has no jurisdiction to consider an appeal of Appellant's removal from employment with Appellee. R.C. 124.03(A).

Therefore, because Appellant occupied a position in the unclassified service at the time of the adverse job action from which the above-referenced appeal arises; I respectfully **RECOMMEND** that the matter be **DISMISSED** for lack of jurisdiction, pursuant to R.C. 124.03(A).

  
Jeannette E. Gunn  
Administrative Law Judge