

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

Robin Darr,

Appellant,

v.

Case No. 2014-REM-08-0228

Sandusky County Recorder,

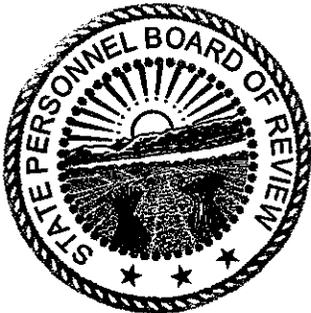
Appellee,

ORDER

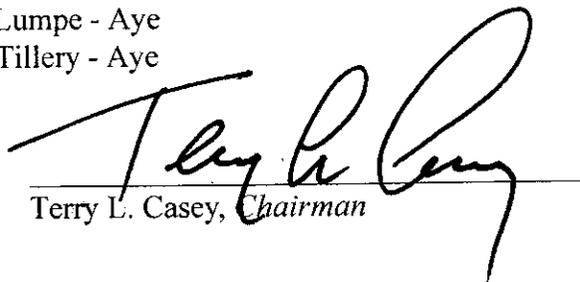
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 this appeal is **DISMISSED** for lack of jurisdiction arising from R.C. 124.03 and R.C. 124.11(A)(8).



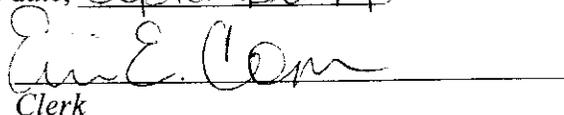
Casey - Aye
Lumpe - Aye
Tillery - Aye


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 14, 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 September 21, 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.

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Transcript Costs: N/A Administrative Costs: \$25.00

Total Deposit Required: * \$25.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: September 29, 2015

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

Robin Darr

Case No. 14-REM-08-0228

Appellant

v.

July 1, 2015

Sandusky County Recorder

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on upon the filing of a notice of appeal by Appellant on August 6, 2014; this Board's Procedural Order and Questionnaire issued on September 4, 2014; Appellant's Response to the Board's Questionnaire, filed on September 12, 2014; and Appellee's Response to the Board's Questionnaire, filed September 19, 2014.

Information contained in the record indicates that Appellant was employed as a Public Records Specialist 1 by Appellee Sandusky County Recorder immediately prior to her termination and performed duties of a clerical nature. Appellee asserts that Appellant was an unclassified employee, exempted from the classified service pursuant to R.C. 124.11(A)(8), and provided this Board with waivers signed by Appellant in 2009 and 2013 acknowledging her relinquishment of any and all civil service status and protection, as well as any rights of appeal under the civil service law of the State of Ohio.

CONCLUSIONS OF LAW

Civil service employment in the State of Ohio is divided into the classified and unclassified services; the division between these two types of public employment is outlined in R.C. 124.11(A), which describes a variety of positions in the public sector which are placed in the unclassified service. In this instance, Appellee asserts that

Appellant's position was exempted from the classified service pursuant to R.C. 124.11(A)(8).

R.C. 124.11(A)(8) provides that the following positions fall within the unclassified service:

(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;

R.C. 124.11(A)(8) allows Appellee, as an individually elected county officer, to appoint four unclassified clerical and administrative support employees. Following legislative changes enacted by H.B. 187, which was effective July 1, 2007, county appointing authorities were no longer required to notify the Director of the Department of Administrative Services of their R.C. 124.11(A)(8) appointments. Nevertheless, Appellee notified the Director that it had exempted Appellant's position and two others pursuant to R.C. 124.11(A)(8) in a letter dated January 15, 2009. A copy of that letter was attached to Appellee's September 19, 2014, Response.

Appellant executed documents entitled "Voluntary Exemption From Civil Service" on January 5, 2009, and on January 7, 2013, acknowledging Appellee's designation of her position as exempt from the classified service pursuant to R.C. 124.11(A)(8), and agreeing to relinquish "any and all civil service status and protection and to accept an appointment in the unclassified civil service." Appellant further acknowledged her understanding that she possessed "no civil service tenure or rights of appeal under the civil service laws of the State of Ohio."

Accordingly, based upon the uncontroverted information contained in the record, I find that Appellant's Public Records Specialist 1 position was unclassified, pursuant to Appellee's designation of the position as exempt pursuant to R.C. 124.11(A)(8). I further find that Appellant was aware of the designation and

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voluntarily waived her right of appeal to this Board. Therefore, I respectfully, **RECOMMEND** that this appeal be **DISMISSED** for lack of jurisdiction arising from R.C. 124.03 and R.C. 124.11(A)(8).



Jeannette E. Gunn
Administrative Law Judge