

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Edward Werling,

Appellant,

v.

Case No. 2015-REM-06-0086

Delaware County Adult Court Services,

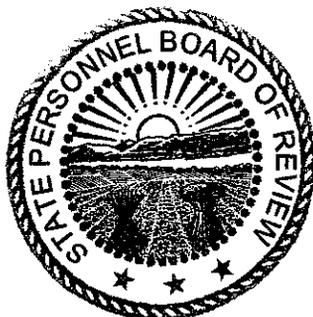
Appellee,

ORDER

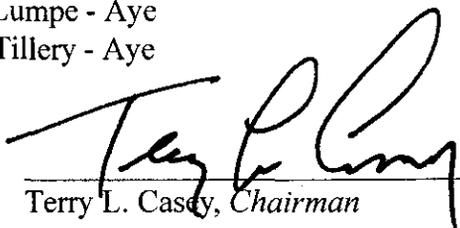
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 instant appeal is **DISMISSED** as untimely pursuant to O.A.C. 124-1-03.



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, October 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 October 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.

Case Number: 2015-REM-06-0086

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: October 29, 2015

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

Edward Werling

Case No. 15-REM-06-0086

Appellant

v.

September 10, 2015

Delaware County Adult Court Services

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's June 17, 2015, filing of an appeal with this Board. Appellee filed a Motion to Dismiss with the Board on June 29, 2015, alleging that Appellant's appeal was untimely filed. Appellant filed no memorandum *contra*.

Based upon the uncontroverted evidence contained in the record, I make the following findings of fact. Appellant was employed by Appellee as an Adult Probation Officer. Appellant submitted a letter of resignation to Appellee with an effective date of January 22, 2015. The letter of resignation was accepted by Appellee. No R.C. 124.34 Order of Removal was issued by Appellee to Appellant at the time of his resignation or subsequent to that time. Appellant filed the instant appeal arising from his alleged removal from employment with Appellee approximately five months after the effective date of his resignation.

I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed in a timely manner. Where no R.C. 124.34 Order has been issued by an appointing authority, an appeal of a removal action must be filed within thirty (30) calendar days following the date on which Appellant had actual notice of the action. O.A.C. 124-1-03(I). In this instance, evidence contained in the record indicates that Appellant had actual notice of the termination of his employment on January 22, 2015. Accordingly, Appellant's June 17, 2015, filing of the instant appeal was well outside the thirty (30) day time period provided for by statute.

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Therefore, I respectfully **RECOMMEND** that Appellee's Motion to Dismiss be **GRANTED** and the instant appeal be **DISMISSED** as untimely pursuant to O.A.C. 124-1-03.


Jeannette E. Gunn
Administrative Law Judge