

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

Timothy Blakeman,

Appellant,

v.

Case No. 2016-IDS-07-0125

Department of Rehabilitation & Correction,

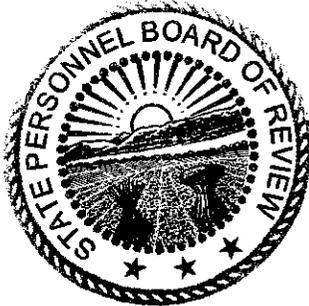
Appellee.

ORDER

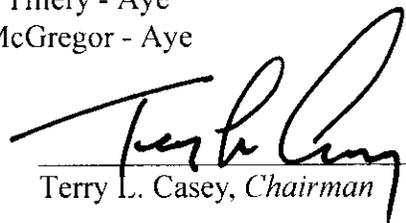
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 instant appeal is **DISMISSED**, pursuant to R.C. 124.03.



Casey - Aye
Tillery - Aye
McGregor - Aye

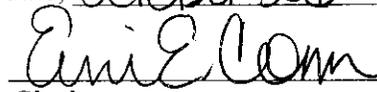


Terry L. Casey, *Chairman*

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 26, 2016.



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 November 2, 2016. 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: 2016-IDS-07-0125

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: November 10, 2016

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

Timothy Blakeman

Case No. 2016-IDS-07-0125

Appellant,

v.

September 21, 2016

Dept. of Rehabilitation and Correction,

Raymond M. Geis

Appellee.

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on from Appellee's September 16, 2016 Motion to Dismiss Appellant's appeal alleging involuntary disability separation ("IDS").

FINDINGS OF FACT

1. Appellant was employed by the Dept. of Rehabilitation and Correction at Chillicothe Correctional Institution as a Penal Workshop Specialist.
2. Appellant received a pre-hearing notice of intent to IDS him on June 22, 2016. (Appellee's Exhibit 2)
3. The pre-separation hearing was set for July 8, 2016. *Id.*
4. Appellant filed the instant appeal on July 1, 2016 before his pre-separation hearing. (Appeal letter of Timothy Blakeman)
5. Appellee never issued an Order of IDS subsequent to the pre-separation hearing. (Affidavit of Donna Bryan, Human Capital Management Analyst 1 at paragraph 6)
6. Appellant was considered for OPERS disability retirement at that Board's July 20, 2016 meeting. (OPERS letter to Timothy Blakeman dated June 21, 2016)
7. Appellant began receiving OPERS disability retirement benefits on August 1, 2016. (Appellee's Exhibit 1 – Employee History "EHOC" entry Disability Retirement)

9/21/16

CONCLUSIONS OF LAW

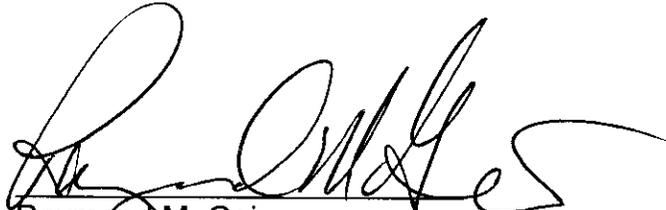
The instant appeal should be dismissed for two alternative but independently sufficient reasons: (1) There is no final decision of the appointing authority from which an appeal may be brought; and (2) the receipt of disability retirement benefits supersedes and precludes IDS.

[SPBR] shall...hear appeals...of employees in the classified civil service from ***final decisions of appointing authorities***..." R.C. 124.03 (A) (1) (emphasis added). A notice of pre-separation hearing is not a final decision of an appointing authority. Also, Appellant's "EHOC" is devoid of any IDS personnel action entry.

Secondly, Appellant's approval for disability retirement caused his separation from employment so that the issue of IDS is moot. Should Appellant be able to return to work, the parties are now governed under the terms of the reinstatement process found in OAC 123:1-30-04.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED**, pursuant to R.C. 124.03.



Raymond M. Geis
Administrative Law Judge