

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Olivia Kemp

*Appellant*

v.

Case No. 05-IDS-02-0063

Department of MR/DD, Warrensville Developmental Center,

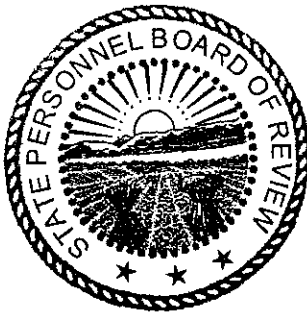
*Appellee*

**ORDER**

This matter came on for consideration before the full Board. Based upon the reasoning set forth in the Board's Opinion attached hereto, the Board hereby disaffirms the Order of Involuntary Disability Separation.

Wherefore, it is hereby **ORDERED** that Appellant's Involuntary Disability Separation be **DISAFFIRMED** for the reasons set forth in the Board's Opinion attached hereto.

Tracy – Aye  
Lumpe – Aye  
Booth – Aye




  
Roger W. Tracy, *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 the foregoing is ~~(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, June 6, 2005.

  
Michelle Allen  
Clerk

ENTERED  
6-6-05



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Department of MR/DD, Warrensville Developmental Center,

*Appellee*

**OPINION**

Appellant was involuntarily disability separated pursuant to an Order of Involuntary Disability Separation. However, the Order was defective in the following manner:

Ohio Administrative Code Section 124-03-01(A) requires that before an Order may be affirmed, the appointing authority must satisfy the following:

- (1) The copies of the order filed with the state personnel board of review and the director of administrative services or its statutory designee and served on the employee shall bear the original signature of the appointing authority and the date of signature. If an appointing authority is a public body, the order must contain the signatures of a majority of the members, or in the alternative, a certified copy of the resolution adopting the order shall be attached to each copy of the order; and
- (2) The employer shall serve the employee with a copy of the order on or before the effective date of the action; and
- (3) The employer shall file a copy of the order with the state personnel board of review and the department of administrative services or its statutory designee within ten calendar days after a copy of the order has been served on the employee, in accordance with rule 124-3-02 of the Administrative Code, unless it can be shown that failure to file timely had no adverse effect on the employee; and
- (4) The order shows, on its face, a list of particulars which form the basis for the order; and
- (5) The appointing authority can, if challenged, demonstrate both the authority of the signer and the authenticity of the signature on a "section 124.34 order" or an order of involuntary disability separation.

The appointing authority has failed to comply with Ohio Administrative Code Section 124-03-01(A)(2).

Therefore, the Order of Involuntary Disability Separation is DISAFFIRMED.

Disaffirmance of an Order of Involuntary Disability Separation under O.A.C. 124-03-01(A) shall not be a bar to refiling an Order, based upon the same incidents, which complies with the rule. (O.A.C. 124-03-01(B)). Appellant shall receive all back pay and applicable benefits, such as vacation, pensions, and health benefits *to which she is entitled*, subject to monetary set off for monies earned, as a result of such disaffirmance.

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Roger W. Tracy, *Chairman*