

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JAMES P. BARKIMER,

Appellant

v.

Case No. 05-RED-02-0049

DEPARTMENT OF REHABILITATION AND CORRECTION,
ALLEN CORRECTIONAL INSTITUTION,

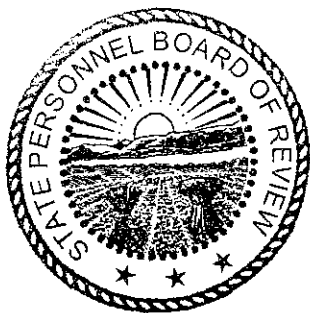
Appellee

ORDER

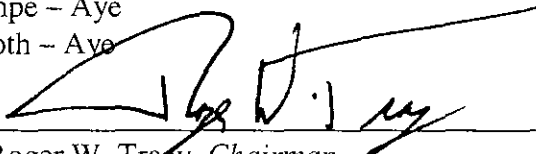
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and 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 be **DISMISSED** due to Appellant's failure to timely file his appeal, pursuant to O.A.C. 124-1-03(E).



Tracy – Aye
Lumpe – Aye
Booth – Aye




Roger W. Tracy, *Chairman*

CERTIFICATION

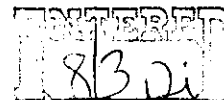
The State of Ohio, State Personnel Board of Review, ss:

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, August 3, 2005.



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**

JAMES P. BARKIMER,

Case No. 05-RED-02-0049

Appellant

v.

June 24, 2005

DEPT. OF REHAB. & CORR.,
ALLEN CORR. INSTITUTION,

CHRISTOPHER R. YOUNG
Administrative Law Judge

Appellee

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:


This matter came on for consideration June 24, 2005, upon Appellant's filing of an appeal of his removal and upon the Appellant's response to the previously issued Procedural Order and Questionnaire filed with this Board on June 17, 2005.

I find that the Appellant received notice of his alleged reduction on July 24, 2004. (See Appellant's response to questions number 1 and 2) I further find that the Appellant did not file this instant appeal until February 7, 2005.

Thus, I find that the State Personnel Board of Review is without jurisdiction to hear this appeal because the appeal was not filed within (90) calendar days after the Appellant received actual notice of his alleged reduction, or the actual imposition of the reduction, as required by Ohio Administrative Code Section 124-1-03(E).

It should be noted that the Appellant has filed a reclassification appeal under SPBR Case No. 2004-REC-02-0048 which should address the merits of the Appellant's concerns.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** since the appeal was not filed timely pursuant to Ohio Administrative Code Section 124-1-03(E).


CHRISTOPHER R. YOUNG
Administrative Law Judge

CRY: