

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

DENISA BASSETT,

Appellant

v.

Case No. 05-REM-02-0054

HAMILTON COUNTY JUVENILE COURT,

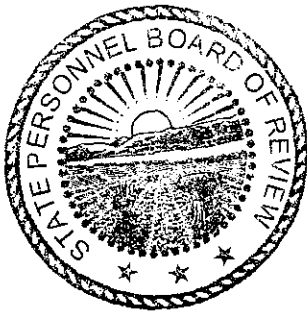
Appellee

ORDER

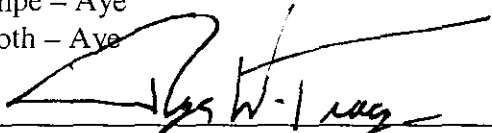
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** for lack of subject matter jurisdiction, pursuant to R.C. 124.30(B).



Tracy – Aye
Lumpe – Aye
Booth – Aye

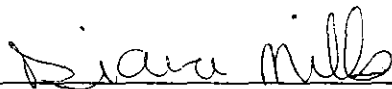


Roger W. Tracy, *Chairman*

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, November 10, 2005.



Diana Mills
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**

Denisa Bassett,

Case No. 05-REM-02-0054

Appellant

v.

October 4, 2005

Hamilton County Juvenile Court,

Appellee

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter comes on for consideration on October 4, 2005, upon the Appellee's filing of a motion to dismiss and memorandum in support filed on July 21, 2005. To date, the Appellant has not filed any memorandum in opposition to Appellee's motion to dismiss, but has filed various pleadings alleging, among other things, that she did not do anything to warrant her removal from her position. However, the Appellee, through its pleadings, has alleged that the Appellant, Denisa Bassett, was serving in an "intermittent" position, or in an unclassified position, at the time of her removal, thus, divesting this Board of jurisdiction to consider the merit of Appellant's claim.

For clarification, as explained in the Appellee's pleadings, the Appellant in September 1998 applied for a position with the Hamilton County Juvenile Court (see affidavit of John Konerman, second paragraph, and Appellee's Exhibits 1 and 2). Further, the record reflects that the Appellant had previously worked for the Hamilton County Juvenile Court in a regular full-time position as a Social Counselor 1, but she resigned from that position on or about April 17, 1998, to accept a full-time position with the State of Ohio, Adult Parole Authority as a Parole Officer (see affidavit of John Konerman at paragraph 4 in Appellee's Exhibit 3). Further, it is Appellee's intention in understanding that the Appellant also continues to work as a full-time employee with the Adult Parole Authority, as well. (see the affidavit of John Konerman at paragraph 6). Moreover, as revealed by the record, the Appellant clearly indicated on two separate applications forms that she was applying for an "intermittent" position (see affidavit of John Konerman at paragraph 7, Appellee's Exhibits 1 and 2).

As revealed by the evidence contained in the record file, according to the hiring practices of the Hamilton County Juvenile Court, a staff recommendation form is completed for each employee that is to be hired by the court (see affidavit of John Konerman at paragraph 8). It is understood, that the staff recommendation form designates the employee's name, job title, starting pay rate, and status as a full-time, part-time, temporary or intermittent employee (see the affidavit of John Konerman). Additionally, the staff recommendation form completed for the Appellant, Denisa Bassett, clearly indicated that she was being recommended for hire as an intermittent employee and/or in an intermittent position (see affidavit of John Konerman at paragraph 4 and Appellee's Exhibit 4).

Moreover, only a Hamilton County Juvenile Court or Court Administrator can authorize that an applicant be hired (see affidavit of John Konerman at paragraph 10). The record also reflects that effective October 12, 1998, the Appellant was appointed by the Hamilton County Juvenile Court Judges to a position as a Social Counselor 1 intermittent (see affidavit of John Konerman in Appellee's Exhibit 5). Moreover, according to an entry on the Hamilton County Juvenile Court Judge's docket the Appellant appeared in open court and accepted her appointment as an intermittent employee (see Appellant's Exhibit 5).

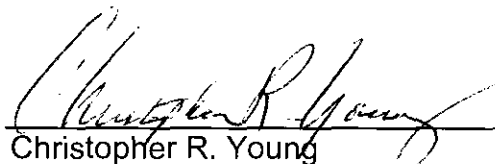
The record also reflects that intermittent employees appointed by the Hamilton County Juvenile Court work as they needed to cover various evening, night, and weekend shifts of regular full-time staff for reasons such as sick leave, vacations and temporary assignments due to turnover (see affidavit of John Konerman at paragraph 13). The evidence is clear that the Appellant was hired to work as an intermittent employee and that her status did not change to the date of her removal (see affidavit of John Konerman at paragraph 14).

Ohio Revised Code Section 124.30(B) provides that "persons who receive external interim, temporary, or **intermittent** appointments are in the **unclassified service and shall serve at the pleasure of their appointing authority**" (emphasis added). Since, the Appellant was hired as an intermittent employee, she did serve at the pleasure of the Hamilton County Juvenile Court as it relates to Ohio Revised Code Section 124.30(B).

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RECOMMENDATION

Therefore, it is respectfully recommended that the Appellant was serving as an intermittent employee in the unclassified service at the time of her removal and that this Board lacks jurisdiction to hear the appeal. Thus, I **RECOMMEND** that Appellee's motion to dismiss be **GRANTED** for lack of jurisdiction for this Board to consider this matter pursuant to Ohio Revised Code Section 124.30(B).


Christopher R. Young
Administrative Law Judge

CRY:dIm