

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

CATHY T. RUTER,

Appellant

v.

Case No. 05-REM-02-0055

HAMILTON COUNTY SHERIFF,

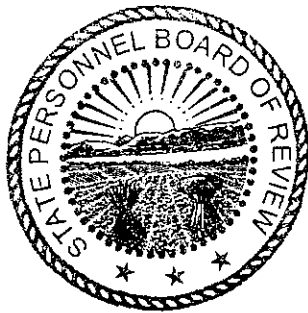
Appellee

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. 124.27(C).



Tracy -- Aye
Lumpe -- Aye
Booth -- Aye

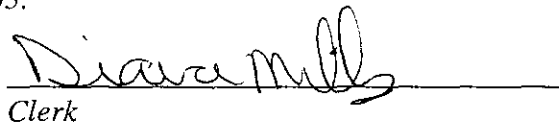


Roger W. Tracy, *Chairman*

CERTIFICATION

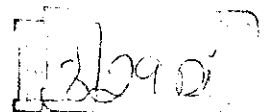
The State of Ohio, State Personnel Board of Review, ss:

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 29, 2005.



Dianna 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**

CATHY T. RUTER,

Case No. 05-REM-02-0055

Appellant

v.

June 21, 2005

HAMILTON COUNTY SHERIFF,

JAMES R. SPRAGUE

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellant's February 14, 2005 filing of an appeal from her removal from a Data Entry Operator II position with Appellee, Hamilton County Sheriff. Thereafter, this Board developed the record through the issuance of a Procedural Order and accompanying no order removal questionnaire. Appellee timely filed its responses on May 26, 2005 and on June 6, 2005. Appellant was provided with the requisite time to file an optional reply but, to date, has not done so.

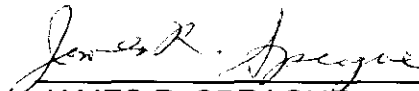
A review of the current record confirms the following:

Appellant served as a Data Entry Operator II for Appellee, Hamilton County Sheriff. The administration of the personnel transactions of the Hamilton County Sheriff generally fall under the auspices of the Hamilton County Personnel Department, a duly constituted county personnel department organized and functioning under the provisions of R.C. 124.14. Through its approval, the Hamilton County Personnel Department authorized that, effective June 26, 2003, the probationary period for all non-union employees of Appellee would be affixed at one year. Appellant began her service with Appellee on or about March 25, 2004 and was removed January 26, 2005, with that effective date of removal falling within Appellant's one-year probationary period. Thus, Appellant was removed during her probationary period.

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R.C. 124.27 and R.C. 124.34 combine to prohibit this Board from considering the merits of an appeal from an employee who was removed during the employee's probationary period. Accordingly, the instant appeal should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.27 and R.C. 124.34.



JAMES R. SPRAGUE
Administrative Law Judge

JRS: