

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

VICKI S. MORGAN,

Appellant

v.

Case No. 05-REM-03-0074

CITY OF NEW LEXINGTON,

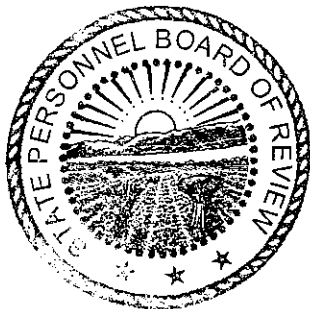
Appellee

ORDER

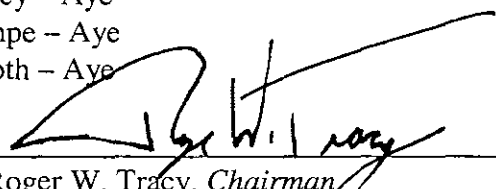
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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. 124.01(B) and R.C. 124.03(A).



Tracy – Aye
Lumpe – Aye
Booth – Aye

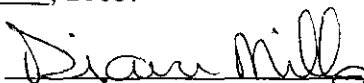


Roger W. Tracy, *Chairman*

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, September 14, 2005.



Dian 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**

VICKI S. MORGAN,

Case No. 05-REM-03-0074

Appellant

v.

July 26, 2005

CITY OF NEW LEXINGTON,

JAMES R. SPRAGUE

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter comes on due to Appellee's June 16, 2005 filing of Appellee's Motion to Dismiss and Memorandum in Support. On June 27, 2005, this Board granted Appellant a twenty-day extension of time to file a Memorandum Contra. Yet, even with that extension, Appellant has not, to date, so filed.

R.C. 124.03(A) provides that this Board shall hear appeals of employees in the classified state service. R.C. 124.01(B) defines "state service" as follows:

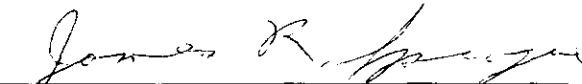
* * *

"State service" includes all such offices and positions in the service of the state, counties, and general health districts thereof, except the cities, city health districts and city school districts.

* * *

Clearly, a City of New Lexington employee is not covered by the definition set forth above. Accordingly, this Board does not have jurisdiction to hear a direct appeal arising from the removal of a City of New Lexington employee.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's Motion and **DISMISS** this appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.01(B) and R.C. 124.03(A).



JAMES R. SPRAGUE
Administrative Law Judge

JRS: