

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

ED BRADSHAW,

Appellant

v.

Case No. 05-REM-03-0086

DEPARTMENT OF REHABILITATION AND CORRECTION,
LEBANON CORRECTIONAL INSTITUTION,

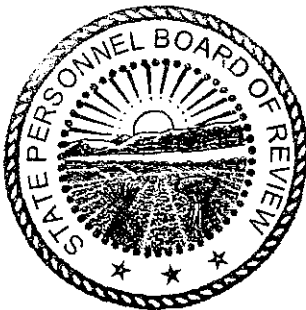
Appellee

ORDER

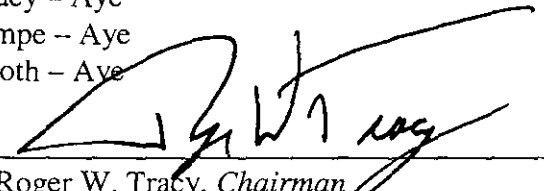
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** for lack of jurisdiction, pursuant to R.C. 4117.10(A).



Tracy – Aye
Lumpe – Aye
Booth – Aye

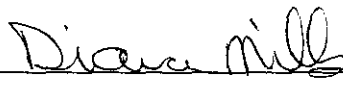


Roger W. Tracy, *Chairman*

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 27, 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**

Ed Bradshaw,

Case No. 05-REM-03-0086

Appellant

v.

August 1, 2005

Ohio Department of Rehabilitation and Correction,
Lebanon Correctional Institution,

Appellee

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

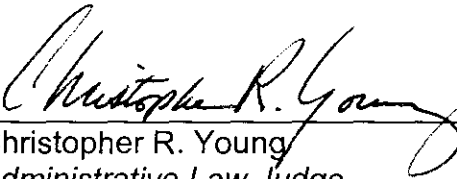
This matter came on for consideration on August 1, 2005, upon Appellee's Motion to Dismiss For Lack of Jurisdiction filed on July 26, 2005. The Appellee contends this matter is properly resolved through the grievance procedure pursuant to a collective bargaining agreement and this Board lacks jurisdiction to consider the matter. To date, the Appellant has not filed a memorandum *contra* to Appellee's motion to dismiss, nor has he responded to a previously issued Procedural Order and Questionnaire.

I find that the Appellant is classified as a Farm Coordinator. The classification is included in a bargaining unit that is represented by OCSEA, Local 11, AFSCME, AFL-CIO. The Appellee, the Ohio Department of Rehabilitation and Correction, Lebanon Correctional Institution and OCSEA, Local 11, AFSCME, AFL-CIO have signed a collective bargaining contract, which covers the Appellant's bargaining unit.

The above contract provides a grievance procedure resulting in final and binding arbitration. The Appellant was removed; this action is covered by the contract grievance procedures. Ohio Revised Code Section 4117.10(A) states that where a bargaining agreement provides a grievance procedure, which culminates in final and binding arbitration, the State Personnel Board of Review has no jurisdiction. This Board is, therefore, without jurisdiction to hear the instant appeal.

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Therefore, I respectfully **RECOMMEND** that this Board **GRANT** Appellee's motion to dismiss and that the appeal be **DISMISSED** for lack of jurisdiction.


Christopher R. Young
Administrative Law Judge

CRY:dIm