

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

CRAIG BRADFORD,

Appellant,

v.

Case No. 06-IDS-01-0021

DEPARTMENT OF REHABILITATION AND CORRECTION,
ALLEN CORRECTIONAL INSTITUTION,

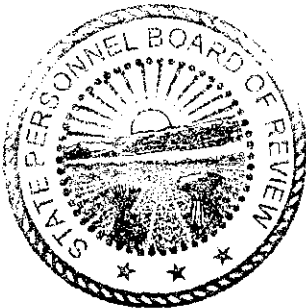
Appellee.

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 Appellee's Motion to Dismiss be **GRANTED** and the instant appeal be **DISMISSED**, pursuant to O.R.C. § 124.03 and O.A.C. § 124-3-02.



Tracy – Aye
Lumpe – Aye
Booth – Aye

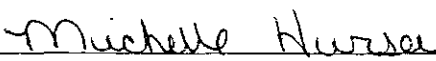


Roger W. Tracy, *Chairman*

CERTIFICATION

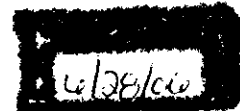
The State of Ohio, State Personnel Board of Review, ss:

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, June 28, _____, 2006.



Michelle Hursey
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**

Craig Bradford,

Case No. 06-IDS-01-0021

Appellant

v.

April 24, 2006

Dept. Of Rehab. & Corr.,
Allen Corr. Institution ,

Appellee

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

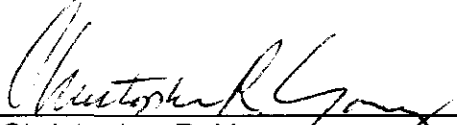
This cause comes on for consideration on April 24, 2006, upon the Appellee's response to this Board's March 27, 2006, Procedural Order and Questionnaire, filed with this Board on April 10, 2006, and upon the Appellee's Motion to Dismiss filed with this Board on April 10, 2006. To date, the Appellant has not filed his optional reply to the Procedural Order and Questionnaire, nor has he filed any memorandum *contra* to the Appellee's Motion to Dismiss.

The Appellant filed a timely notice of appeal from his involuntary disability separation, effective January 27, 2006. In Appellee's response, as well as in its motion to dismiss, the Appellee asserts that the Appellant had been receiving disability benefits continuously from March 27, 2005 through March 17, 2006.

The central question that would be needed to be addressed at the record hearing in the instant appeal would be if the Appellant was capable of performing the essential job duties of his position as of January 27, 2006. It would be fraudulent for the Appellant to argue that he was capable of performing the essential duties of his position as of January 27, 2006, while at the same time, collecting disability leave benefits. The Appellant cannot argue to this Board that he can perform his duties and at the same time argue to the Department of Administrative Services that he cannot perform his duties.

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Therefore, I respectfully **RECOMMEND**, based upon the above stated rationale, that Appellee's motion to dismiss be **GRANTED** and that the instant appeal be **DISMISSED**.



Christopher R. Young
Administrative Law Judge

CRY: