

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

DEBRA J. SINGLETARY,

Appellant,

v.

Case No. 06-IDS-02-0032

DEPARTMENT OF YOUTH SERVICES, CENTRAL OFFICE,

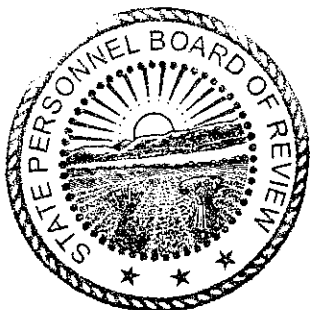
Appellee.

ORDER

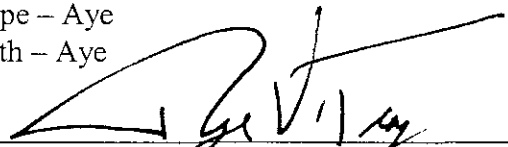
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 this 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** as moot, pursuant to R.C. 124.03 and O.A.C. 123:1-33 *et seq.* It is further **ORDERED** that the instant appeal be **DISMISSED** due to Appellant's inability to claim that she could have performed the essential duties of her position at the time of her Involuntary Disability Separation, pursuant to R.C. 124.03 and O.A.C. 123:1-33 *et seq.* It is therefore further **ORDERED** that the instant appeal be **DISMISSED** for failure to comply with the requirements set forth in O.A.C. 124-11-07 (A)(2) and (C).



Tracy – Aye
Lumpe – Aye
Booth – Aye

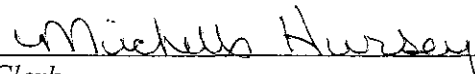


Roger W. Tracy, *Chairman*

CERTIFICATION

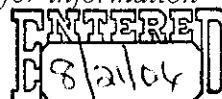
The State of Ohio, State Personnel Board of Review, ss:

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 21, 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**

DEBRA J. SINGLETARY,

Case No. 06-IDS-02-0032

Appellant

v.

July 6, 2006

DEPARTMENT OF YOUTH SERVICES,
CENTRAL OFFICE,

Appellee

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

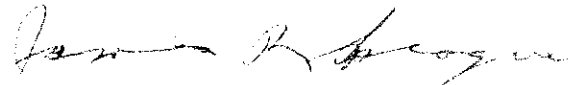
To the Honorable State Personnel Board of Review:

This cause comes on due to Appellee's June 23, 2006 filing of a motion to dismiss, memorandum in support, and affidavit of Mona Reed, Human Resources Manager of Appellee's Freedom Center. Appellant was provided with the requisite time to file a memorandum *contra* but, to date, has not done so.

O.A.C. 124-11-07 governs the motions practice before this Board. O.A.C. 124-11-07 (A)(2) indicates that an opposing party must affirmatively respond to a properly filed and supported motion to dismiss, such as the instant motion, and demonstrate that there is a genuine issue in dispute. O.A.C. 124-11-07 (C) sets forth a ten-day time frame in which to respond to a dispositive motion such as the instant motion to dismiss. Appellant has failed to comply with the requirements contained in O.A.C. 124-11-07. Further, it appears that Appellant would have been precluded from claiming that she could have performed the essential duties of her position. This is because, but for having been given an Involuntary Disability Separation (IDS), Appellant would have continued receiving Occupational Injury Leave compensation. Finally, Appellee has rescinded the instant IDS, due to a procedural issue and that pertinent IDS order and the instant appeal are now moot.

DEBRA J. SINGLETARY
Case No. 06-IDS-02-0032
Page 2

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the instant appeal as moot, pursuant to R.C. 124.03 and O.A.C. 123-1-33 *et seq.* Secondly, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the instant appeal due to Appellant's inability to claim that she could have performed the essential duties of her position at the time of her Involuntary Disability Separation, pursuant to R.C. 124.03 and O.A.C. 123-1-33 *et seq.* Finally, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for Appellant's failure to comply with the requirements contained within O.A.C. 124-11-07 (A)(2) and (C).



JAMES R. SPRAGUE
Administrative Law Judge

JRS: