

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Debra Axline,

Appellant,

v.

Case No. 06-IDS-02-0040

Department of Rehabilitation and Correction,
North Central Correctional Institution,

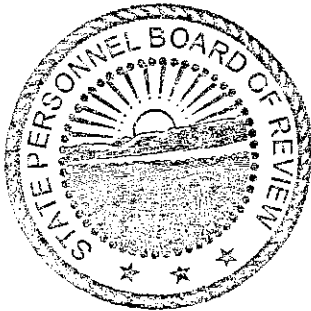
Appellee.

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** as moot, pursuant to O.A.C. 123:1-30 *et seq.*



Lumpe - Aye
Booth - Aye
Sfalcin - Aye



J. Richard Lumpe, *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 this document and any attachment thereto constitute ~~(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 24, 2008.



Michelle Hunsay
Clerk

NOTE: Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

9.24.08

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Debra Axline,

Case No. 06-IDS-02-0040

Appellant

v.

June 12, 2007

Department of Rehabilitation & Correction,
North Central Correctional Institution

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on June 12, 2007, upon Appellant Axline's February 21, 2006 notice of appeal from her involuntary disability, which was effective February 9, 2006. In her notice of appeal, Appellant Axline states "They medically separated (sic) me from my job because I have been on Workers Comp since I fell at work on 7-26-05."

If this Board were to hold a hearing on Appellant Axline's appeal of her involuntary disability separation, then Appellant Axline would have to prove to this Board that as of the effective date of her involuntary disability separation, which was February 9, 2006, she could perform the essential duties of her position. Since Appellant Axline states in her notice of appeal that she has been receiving benefits from the Bureau of Workers Compensation since she fell at work on July 26, 2005, it would be tantamount to fraud for Appellant Axline to come before this Board and argue that at the same time she was receiving benefits from Workers Compensation for not being able to work, that she should not have been involuntarily disability separated because she was able to work and perform the essential duties of her position. The fact that Appellant Axline was receiving workers compensation benefits at the time of her involuntary disability separation is proof enough that as of February 9, 2006, she was not able to perform her essential job duties.

Appellant Axline has until July 25, 2008 (according to her order of involuntary disability separation) to apply for reinstatement to her position. If she should apply for reinstatement and is denied such reinstatement by the Appellee, she can then appeal the denial of reinstatement to this Board.

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Since Appellant Axline was receiving workers compensation benefits at the time of being placed on involuntary disability separation, this appeal is moot as there is no justiciable issue before this Board. Therefore, it is my **RECOMMENDATION** that this appeal be **DISMISSED** as moot.



Marcie M. Scholl
Administrative Law Judge

:mms