

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Carla J. Travis,

Appellant,

Case Nos. 06-INV-02-0033

06-MIS-02-0034

v.

06-MIS-05-0244

Summit County Children Services,

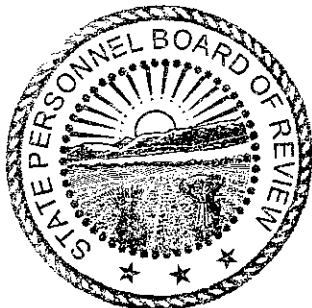
Appellee.

ORDER

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

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 Appellant's miscellaneous appeals (Case Nos. 06-MIS-02-0034 and 06-MIS-05-0244) be **DISMISSED** for lack of subject matter jurisdiction, pursuant to O.R.C. § 124.03, and Appellant's request for an investigation (Case No. 06-INV-02-0033) be **TERMINATED**, pursuant to O.R.C. § 124.56.



Lumpe – Aye

Booth – Aye

Tracy – Aye

J. Richard Lumpe, *Chairman*

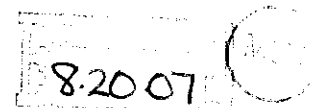
CERTIFICATION

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

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that 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 20, 2007.

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**

Carla J. Travis, et al.
Appellant

Case Nos. 06-INV-02-0033
06-MIS-02-0034
06-MIS-05-0244

v.

June 26, 2007

Summit County Children Services
Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon the above referenced appeals filed by Appellant Travis. Since the three appeals all involve the same parties and basically the same allegations, the appeals are hereby consolidated pursuant to administrative rule 124-11-04 of the Ohio Administrative Code.

The appeals that have been designated as case numbers 2006-INV-02-0033 and 2006-MIS-02-0034 were filed on February 15, 2006. A letter was sent to Appellee by this Board on May 10, 2006, requesting a response to Appellant Travis' appeals. Appellee responded on July 17, 2006 and Appellant Travis filed a reply on August 11, 2006.

Basically Appellant Travis stated she is filing three "grievances" with this Board. The first grievance alleges that Appellant Travis' supervisor, Ms. Debra Forkas, criticized her work and threatened her with disciplinary action. The second grievance alleges other employees in the agency were allowed to transfer to different departments upon request while Appellant Travis was denied such a request and that the person who replaced Appellant Travis while she was out on FMLA, was not as qualified as Appellant Travis and was younger. The final grievance alleges that while Appellant Travis was out on FMLA, she was apprised that there may be an investigation into her work once she returns from FMLA.

The appeal that has been designated as 2006-MIS-05-0244 was filed by Appellant Travis on May 19, 2006. That appeal alleges that Appellant Travis was not returned to the position she held prior to being placed on FMLA.

In the responses filed by Appellee, Appellee argues that this Board has no jurisdiction to investigate the allegations made by Appellant Travis. Appellant Travis did not address the matter of this Board's jurisdiction in her replies. Appellee is correct in its assertion.

Unlike a court of general jurisdiction, this Board has only the authority granted to it by statute. This Board's investigatory authority is derived from section 124.56 of the Ohio Revised Code. That statute states as follows:

When the state personnel board of review or a municipal or civil service township civil service commission has reason to believe that any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal, has abused such power by making an appointment, layoff, reduction, suspension, or removal of an employee under his or their jurisdiction in violation of this chapter of the Revised Code, the board or commission shall make an investigation, and if it finds that a violation of this chapter, or the intent and spirit of this chapter has occurred, it shall make a report to the governor, or in the case of a municipal or township officer or employee, the commission shall make a report to the mayor or other chief appointing authority, or in the case of a civil service township, the commission shall make a report to the board of township trustees, who may remove forthwith such guilty officer, board, commission, head of department, or person. The officer or employee shall first be given an opportunity to be publicly heard in person or by counsel in his own defense. The action of removal by the governor, mayor, or other chief appointing authority is final except as otherwise provided in this chapter of the Revised Code. (Emphasis added).

As can be seen by reading the above statute, this Board's investigatory power is limited to allegations of abuse by an appointing authority in the areas of appointments, layoffs, reductions, suspensions or removals. The investigatory

power of the Board does not include allegations of supervisor harassment or disputes, alleged denials of requests to transfer positions, alleged violations of FMLA and the filing of a position of an employee on FMLA, nor the right of an appointing authority to conduct an investigation of one of its employees. The Board's authority also does not extend to allegations that an employee was not returned to the proper position when returning from FMLA leave.

There are other agencies throughout the state who possess jurisdiction to review allegations of discrimination and harassment, as well as violations of FMLA and other federally mandated types of leave. This Board does not possess jurisdiction to review any of those allegations.

If Appellant Travis would have received a disciplinary reduction, suspension or had been removed for a disciplinary purpose, then she could have filed an appeal with this Board. If any of those actions take place in the future, Appellant Travis can appeal to this Board at that time.

Since this Board does not possess subject matter jurisdiction to investigate the allegations made by Appellant Travis, it is my **RECOMMENDATION** that these appeals be **DISMISSED** and the investigation be **TERMINATED**.



Marcie M. Scholl
Administrative Law Judge

:mms