

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

Thomas M. Darkes,

Appellant,

v.

Case No. 07-MIS-02-0067

Ohio State University,

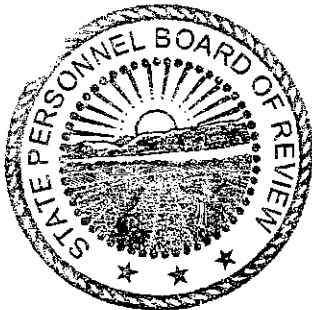
Appellee.

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 subject matter jurisdiction, pursuant to O.R.C. § 124.03.



Lumpe - Aye
Booth - Aye
Sfalcin - Aye

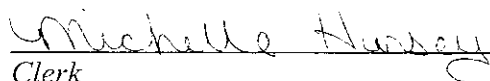


J. Richard Lumpe, *Chairman*

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, June 4, 2008.



Michelle Hursey
Clerk

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

6-4-08

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

Thomas M. Darkes,

Case No. 07-MIS-02-0067

Appellant

v.

April 30, 2008

Ohio State University,

Jeannette E. Gunn

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration on Appellee's Motion to Dismiss, filed with this Board on April 14, 2008. Appellee asserts that this Board lacks jurisdiction to consider the instant appeal. Appellant filed no memorandum *contra*.

Appellant filed an appeal with this Board on February 22, 2007, protest his alleged reduction in pay. Appellant argues that he has subjected to wage discrimination as a result of his exclusion from participation in Appellee's incentive program for non-journeyperson painters. The program rewards non-journeyperson painters with pay increases for completing steps toward earning their journeyperson's certificate. Appellant already possesses his journeyperson's certificate.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions of more than three days, removals, reductions, layoffs and abolishments. Neither R.C. 124.03, nor any other section of the Ohio Revised Code provides this Board with jurisdiction to consider a claim of wage discrimination.

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Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of subject matter jurisdiction.


Jeannette E. Gunn
Administrative Law Judge

JEG: