

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Kelvin Lee,

Appellant,

v.

Case No. 07-WHB-02-0071

Department of Rehabilitation and Correction,
Ohio Reformatory For Women,

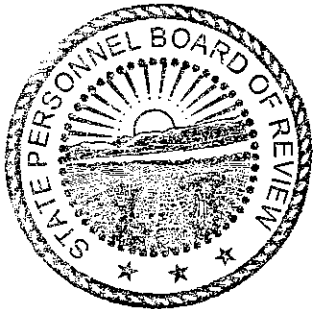
Appellee.

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** due to Appellant's failure to comply with this Board's April 25, 2007 Procedural Order, pursuant to section 124-11-13(B) of the Ohio Administrative Code.



Lumpe – Aye
Booth – Aye
Tracy – Aye

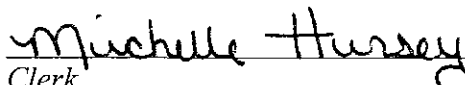


J. Richard Lumpe, *Chairman*

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, July 9, 2007.



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**

Kelvin Lee

Case No. 07-WHB-02-0071

Appellant

v.

June 8, 2007

Department of Rehabilitation & Correction,
Ohio Reformatory for Women

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

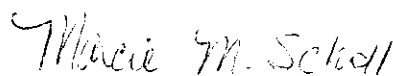
To the Honorable State Personnel Board of Review:

This cause came on for consideration upon Appellant's filing of a whistleblower appeal on February 26, 2007. On April 25, 2007, this Board issued a Procedural Order and Questionnaire to Appellant Lee directing him to respond to the questionnaire by May 9, 2007. The Procedural Order and Questionnaire were mailed to Appellant Lee by certified mail to the address contained on his notice of appeal. The certified mail return receipt indicated that Appellant Lee signed for receipt of the Procedural Order and Questionnaire on April 27, 2007. To date, no response has been received by Appellant Lee.

There are specific statutory criteria that an employee has to meet in order to invoke the affirmative defense of a whistleblower claim. Those criteria are found in section 124.341 of the Ohio Revised Code and the purpose of the Questionnaire was to determine if indeed Appellant Lee met those criteria. Since the Questionnaire was not completed and returned there is no way for this Board to determine if the criteria was met. The Procedural Order specifically stated "If the questionnaire is not completed and returned by the due date, then this Board may take whatever action is appropriate."

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Since the Questionnaire was not completed and Appellant Lee has failed to proceed with his appeal, it is my **RECOMMENDATION** that this appeal be **DISMISSED**.



Marcie M. Scholl
Administrative Law Judge

:mms