

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2022-030**

**BAMBI BALDRIDGE**

**APPELLANT**

**VS.                   FINAL ORDER SUSTAINING HEARING OFFICER'S  
FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER AS ALTERED**

**CABINET FOR HEALTH AND FAMILY SERVICES**

**and**

**PERSONNEL CABINET**

**APPELLEES**

\* \* \* \* \*

The Board, at its regular February 2023 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated January 3, 2023, and being duly advised,

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Delete** the Findings of Fact paragraph 6 and substitute the following:

6. On May 1, 2022, based on the budget bill, the Appellant received a \$2,400 increase as did all other Social Service Clinicians.

B. **Delete** the Conclusions of Law paragraph 2 and substitute the following:

2. Because the Appellant kept her salary when she voluntarily demoted from grade 15 to grade 14, she was not entitled to a salary increase when


her classification of Social Service Clinician I received a grade change from grade 14 to grade 15 on December 16, 2021.

**IT IS FURTHER ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer, as Altered, are approved, adopted, and incorporated herein by reference as a part of this Order, and the Appellant's appeal is **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

**SO ORDERED** this 14<sup>th</sup> day of February, 2023.

**KENTUCKY PERSONNEL BOARD**

  
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**MARK A. SIPEK  
SECRETARY**

A copy hereof this day mailed to:

Bambi Baldrige  
Hon. Peyton Sands  
Hon. Catherine Stevens  
Hon. Rosemary Holbrook (Personnel Cabinet)  
Jay Klein

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2022-030**

**BAMBI BALDRIDGE**

**APPELLANT**

**V. FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

**CABINET FOR HEALTH AND FAMILY SERVICES**

**AND**

**PERSONNEL CABINET**

**APPELLEES**

**\*\* \*\* \* \* \***

This matter came on for a pre-hearing conference on July 15, 2022, at 11:00 a.m. at 1025 Capital Center Drive, Suite #105, Frankfort, Kentucky, before Mark A. Sipek, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Bambi Baldrige, was present and was not represented by legal counsel. The Appellee Cabinet for Health and Family Services was present and was represented by the Hon. Peyton Sands. The Appellee Personnel Cabinet was present and was represented by the Hon. Catherine Stevens.

The purpose of the pre-hearing conference was to determine the specific penalization alleged by the Appellant, to determine the specific section of KRS Chapter 18A that authorizes this appeal, to determine the relief sought by the Appellant, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

**FINDINGS OF FACT**

The Hearing Officer makes the following findings by a preponderance of the evidence:

1. The Appellant filed her appeal with the Personnel Board on March 10, 2022. She felt that she was penalized when she did not receive a ten percent (10%) raise that was provided to other employees in the Social Service Clinician II classification. This raise was provided on December 16, 2021, as a result of a pay grade change. The Appellant was determined to be ineligible for this raise allegedly based on the language contained in 101 KAR 2:034. The

Appellant had previously taken a voluntary demotion from Social Service Clinician II to Social Service Clinician I and had been allowed to maintain her salary.

2. The Appellant pointed out that she was able to keep five percent (5%) when she choose to demote but lost out on the ten percent (10%) based on the recent grade change. She stated she would be satisfied with five percent (5%) at this time, although she would like to receive the full ten percent (10%).

3. The Appellees filed a Joint Motion for Summary Judgment. Included in the motion were four Personnel Action Notifications (PANs) relating to the Appellant. These Personnel Actions are not in dispute.

4. On July 1, 2019, the Appellant took a voluntary demotion from Social Service Clinician II (grade 15) to Social Service Clinician I (grade 14) and kept her same salary.

5. On December 16, 2021, the grade change for Social Service Clinician I was changed from grade 14 to grade 15, however, the Appellant's salary was not changed.

6. On May 1, 2022, based on the budget bill, the Appellant received a \$2,400 increment as did all other Social Service Clinicians.

7. On July 1, 2022, as a result of the budget bill, the Appellant received an eight percent (8%) salary increase as did all other state employees.

8. The Appellant filed this appeal arguing that she should have received a ten percent (10%) increase on December 16, 2021, when Social Service Clinician I's underwent a grade change from grade 14 to grade 15. The Appellant did not receive this increase based on the provisions of 101 KAR 2:034, Section 3(2).

9. Because the Appellant had previously taken a voluntary demotion from grade 15 to grade 14 without losing any pay, she was not entitled to a salary increase when her Social Service Clinician I classification underwent a grade change from 14 to 15.

10. Although given an opportunity to file a response to the Appellee's Joint Motion for Summary Judgment, the Appellant failed to do so.

11. There are no material facts in dispute and this matter can be decided as a matter of law based on the appeal form, the statements of the parties at the prehearing conference, and the Appellee's Joint Motion for Summary Judgment and attachments.

**CONCLUSIONS OF LAW**

1. 101 KAR 2:034, Section 3(2) reads as follows:

Section 3. Salary Adjustments.

(2) Demotion.

- (a) If an employee is demoted, the appointing authority shall determine the salary in one (1) of the following ways:

1. The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced; or
2. The employee shall retain the salary received prior to demotion. If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files.

- (b) An employee whose salary is not reduced by five (5) percent per grade upon demotion shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been demoted.

- (c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

2. Because the Appellant kept her salary when she voluntarily demoted from grade 15 to grade 14, she was not entitled to a salary increase when her classification of Social Service Clinician I received a great change from grade 14 to grade 15 on December 16, 2021.

3. Because the Appellant was not entitled to a salary increase when this grade change took place, she did not suffer a penalization, and the Personnel Board is unable to grant her any relief.

4. There are no genuine issues of material fact, and this case can be decided as a matter of law. The Hearing Officer recommends to the Personnel Board that the Appellees Joint Motion for Summary Judgment be granted, and this appeal be dismissed. KRS 18A.095(18)(a) and KRS 13B.090(2).

### **RECOMMENDED ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Kentucky Personnel Board that the appeal of **BAMBI BALDRIDGE V. CABINET FOR HEALTH AND FAMILY SERVICES AND PERSONNEL CABINET (APPEAL NO. 2022-030)** be **DISMISSED**.

### **NOTICE OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within fifteen (15) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal, a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).


**[Hearing Officer Note: Any document filed with the Personnel Board shall also be served on the opposing party.]**

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each Party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

**ISSUED** at the direction of **Hearing Officer Mark A. Sipek** this 3<sup>rd</sup> day of January, 2023.

**KENTUCKY PERSONNEL BOARD**



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**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day emailed and mailed to:

Hon. Peyton Sands  
Hon. Catherine Stevens  
Bambi Baldrige  
Hon. Rosemary Holbrook (Personnel Cabinet)