

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-134**

CHRISTOPHER BANKS

APPELLANT

**SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE

APPELLEE

*** *** *** *** ***

The Board, at its regular March 2024 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated February 14, 2024, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer are approved, adopted, and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **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 14th day of March, 2024.

KENTUCKY PERSONNEL BOARD


MARK A. SIPEK, SECRETARY

A copy hereof this day emailed and mailed to:

Christopher Banks
Hon. Jarrett Rose
Hon. Rosemary Holbrook (Personnel Cabinet)
Melanie Jenkins

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-134

CHRISTOPHER BANKS

APPELLANT

VS.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE

APPELLEE

** * * * *

This matter came on for a pre-hearing conference on November 17, 2023, at 12:00 p.m. ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before Hearing Officer Mark A. Sipek. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Christopher Banks, was present, and was not represented by legal counsel. The Appellee, Justice and Public Safety Cabinet, Department of Juvenile Justice (DJJ), was present and was represented by the Hon. Jarrett Rose.

The purposes of the pre-hearing conference were to determine if the Personnel Board has jurisdiction over this appeal, to determine which version of KRS Chapter 18A applies to this appeal, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

BACKGROUND AND FINDINGS OF FACT

1. The Appellant filed his appeal with the Personnel Board on September 28, 2023, alleging that he should receive the same salary as other Juvenile Facility Manager Is. He alleged that Kentucky Senate Bill 162 allowed for this salary increase.

2. The Appellant stated that there was a Juvenile Facility Manager I in his same county who received a salary increase while the Appellant did not. The Appellant believes he has similar work experience and education and that they work in the same job classification, same county, and same department. He believes he should receive a similar increase that

became effective July 1, 2023. The Appellant stated that he was not alleging any type of protected class discrimination.

3. The Appellee alleged that the Personnel Board did not have jurisdiction over this appeal and filed a Motion to Dismiss and a Motion for Summary Judgment.

4. The Appellant alleged he should receive a similar pay increase that became effective on July 1, 2023. He bases his claim upon 101 KAR 2:034 and Kentucky Senate Bill 162.

5. On his appeal form and at the pre-hearing conference, the Appellant did not allege any type of protected class discrimination.

6. In its motion, the Appellee stated as follows:

The Appellant claims that under Kentucky Senate Bill 162 that his job classification, a Juvenile Facilities Manager I, is subject to a salary increase. Kentucky Senate Bill 162 (Chapter 106) is an act “relating to public safety, making an appropriation therefor, and declaring an emergency.” (See Kentucky Senate Bill 162.) In the Bill, DJJ was appropriated approximately 4.8 million dollars to provide salary increases to certain job classifications within the department. DJJ targeted positions with high turnover rates and compression issues, therefore only Juvenile Facility Managers of Detention Centers and *not* Day Treatment Centers, Group Home, and YDCs received the salary increase, due to the strenuous and potentially hazardous nature of working in a detention facility. Further, the Bill changed the offices under which DJJ facilities were governed by. The Office of Detention was created and thus separated the governance of Detention Facilities into their own office (See Kentucky Senate Bill 162 Sec.1 (c)(4)), while youth development centers, group homes, and day treatment centers remain under auspices the Office of Program Operations. Since the offices differ, the statutory provisions of Senate Bill 162 would not apply to any facility still under the authority of the Office of Program Operations. Appellant is listed as holding the position of Juvenile Facilities Manager I, but holds this position at the Breathitt Day Treatment Center (which is operated under the office of Program Operations) and not at a detention center. Therefore, under the provisions of Senate Bill 162, Appellant is not entitled to such salary increase based on his work location, and not merely on his job title alone. (sic)

7. Although given an opportunity to respond to the Appellee’s Motion to Dismiss and Motion for Summary Judgment, the Appellant failed to do so.

8. The Appellant is a Juvenile Facilities Manager I at the Breathitt Day Treatment Center.

9. He was not eligible for a salary increase under the provisions of Kentucky Senate Bill 162.

10. As a result of the provisions of Kentucky Senate Bill 153, the Personnel Board no longer has jurisdiction over salary claims.

11. There are no genuine issues of material fact and this appeal can be decided as a matter of law based on the Appeal Form, the statements of the parties at the pre-hearing conference, and the Appellees Motion to Dismiss and Motion for Summary Judgment.

CONCLUSIONS OF LAW

1. As a result of the changes to KRS Chapter 18A in Senate Bill 153, the Personnel Board no longer has jurisdiction over salary claims or any other claims previously defined as "penalizations." KRS 18A.005 and KRS 18A.095

2. Because the Personnel Board lacks jurisdiction, this appeal can be dismissed as a matter of law without an evidentiary hearing. KRS 13B.090(2) and KRS 18A.095(16)(a).

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 **CHRISTOPHER BANKS VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE (APPEAL NO. 2023-134)** 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 the Hearing Officer this 14th day of February, 2024.

KENTUCKY PERSONNEL BOARD


MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day emailed and mailed to:

Hon. Jarrett Rose
Christopher Banks
Hon. Rosemary Holbrook