

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2023-158

JEREMY FRASURE

APPELLANT

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

TRANSPORTATION CABINET

APPELLEE

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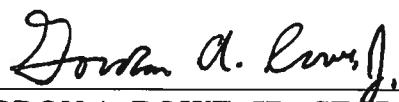
The Board, at its regular May 2024 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated April 9, 2024, and being duly advised,

**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 17<sup>th</sup> day of May, 2024.

KENTUCKY PERSONNEL BOARD

  
\_\_\_\_\_  
GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

Jeremy Frasure  
Hon. William Fogle  
Hon. Rosemary Holbrook (Personnel Cabinet)  
J. R. Dobner

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2023-158

**JEREMY FRASURE**

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**V.**

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

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**APPELLEE**

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This matter came on for a pre-hearing conference on February 20, 2024, at 10:00 a.m., ET, 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, Jeremy Frasure, was present and was not represented by legal counsel. The Appellee, Transportation Cabinet, was present and was represented by the Hon. William Fogle.

The purposes of the pre-hearing conference were to determine the specific penalization(s) alleged by Appellant, to determine which version of KRS Chapter 18A applies to this appeal, to determine the specific section of KRS Chapter 18A which authorizes this appeal, to determine whether this appeal was filed within the time limitations set forth in KRS 18A.095, to define the issues, to address any other matters relating to the appeal, to determine whether the Personnel Board has jurisdiction over this appeal, and to discuss the option of mediation.

**BACKGROUND AND FINDINGS OF FACT**

1. The Hearing Officer notes this appeal was filed with the Personnel Board on December 1, 2023, appealing from a three (3) -day suspension. The Appellant believed he had been singled out and targeted and felt that the suspension was unfair.

2. The Appellee filed a Motion to Dismiss alleging that the appeal was not timely filed. The Appellee alleged that the Appellant received notice of his suspension on October 27, 2023, and did not file his appeal with the Personnel Board until December 1, 2023.

3. Although given an opportunity to file a response to the Appellee's Motion to Dismiss, the Appellant failed to do so.

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4. The Appellant was issued a three (3) -day suspension by the Appellee by letter dated October 27, 2023. The Appellant signed an acknowledgement that he received notice of his three (3) -day suspension on October 27, 2023.

5. The Appellant filed his appeal with the Personnel Board on December 1, 2023.

6. 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 Appellee's Motion to Dismiss.

**CONCLUSIONS OF LAW**

1. Because the Appellant did not file his appeal with the Personnel Board until December 1, 2023, after receiving notice of his suspension on October 27, 2023, his appeal was not filed within the thirty (30) -day time limitation set forth in KRS 18A.095(8).

2. The Appellant contended that his appeal was timely filed because he could not control how long the mail took to deliver the appeal to the Personnel Board. However, 101 KAR 1:365, Section 3(1) states; "an appeal or a document relating to an appeal shall be filed with the Personnel Board through the office of the executive director within the time period established in KRS 18A.095."

3. Because this appeal was not timely filed, the Personnel Board lacks jurisdiction to conduct an evidentiary hearing. KRS 18A.095(16)(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 **JEREMY FRASURE VS. TRANSPORTATION CABINET (APPEAL NO. 2023- 158)** 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).

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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).

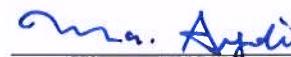
**The parties are strongly encouraged to send any exceptions and/or requests for oral argument by email to: PersonnelBoard@ky.gov**

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.

**Any document filed with the Personnel Board shall be served on the opposing party.**

**SO ORDERED** at the direction of **Hearing Officer Mark A. Sipek** on the 9 day of April, 2024.

**KENTUCKY PERSONNEL BOARD**

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

A copy hereof this day emailed and mailed to:

Hon. William Fogle  
Jeremy Frasure  
Hon. Rosemary Holbrook (Personnel Cabinet)