

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2016-272

LORI GOODE

APPELLANT

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

ENERGY AND ENVIRONMENT CABINET

APPELLEE

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The Board, at its regular January 2017 meeting, having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated December 19, 2016, and being duly advised,

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby 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 19<sup>th</sup> day of January, 2017.

KENTUCKY PERSONNEL BOARD

  
MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Leesa Moorman  
Ms. Lori Goode  
Ms. Sherry Butler

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2016-272**

**LORI GOODE**

**APPELLANT**

**VS.**

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

**ENERGY AND ENVIRONMENT CABINET**

**APPELLEE**

\*\* \*\* \*

This matter came on for a pre-hearing conference on December 8, 2016, at 9:30 a.m., ET, at 28 Fountain Place, 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.

Appellant, Lori Goode, was present by telephone and was not represented by legal counsel. Appellee, Energy and Environment Cabinet, was present and represented by the Hon. Leesa Moorman. Also present for the Appellee was Sherry Butler.

The purposes of the pre-hearing conference were to discuss the availability of witnesses and to schedule a new evidentiary hearing.

**BACKGROUND**

1. The Appellant filed her appeal with the Personnel Board on October 25, 2016, appealing being placed on Agency Directed Sick Leave by notice of September 19, 2016. The Appellant also stated that after she was placed on directed sick leave, she visited a doctor who provided a statement saying that she could return to work without interruptions or with frequent breaks.

2. The Appellant stated that she had been placed on FMLA in the past for anxiety and no one had problems with her calling in or being able to take breaks when needed. Appellant's position was that she was able to work and just needs an accommodation for her

anxiety. Specifically, the Appellant stated she could return to work if they gave her a cubical with higher walls where she would not be interrupted and would be able to work. At the initial pre-hearing conference on November 21, 2016, the Appellant stated she felt that she had been lied about and that she would like to be transferred to another work place.

3. Also at the November 21, 2016 pre-conference, there was a discussion about whether the Appellant had resigned her position or remained on directed sick leave. The Appellee had apparently sent the Appellant a letter accepting her resignation. The Appellant disagreed and stated she never did resign. The Hearing Officer instructed the parties that this would be a separate issue, and the Appellant would need to file a separate appeal as the current appeal only concerns the Agency's decision to place her on directed sick leave and to keep her in that status after she produced a doctor's statement.

4. At the pre-hearing conference on December 8, 2016, the Appellant stated she had retired. She stated the only relief on this appeal was to see that one of her supervisors who had treated her badly would be punished.

5. Counsel for the Appellee acknowledged that the Appellant had retired.

6. The Hearing Officer offered to schedule an evidentiary hearing, however, no hearing was scheduled.

#### **FINDINGS OF FACT**

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

1. There are no material facts in dispute and the Hearing Officer believes this matter can be decided based on the statements on the Appeal Form and the statements made at the two pre-hearing conferences.

2. The Appellant filed her appeal with the Personnel Board from the Appellee's decision to place her on directed sick leave and to not allow her to return to work with an accommodation.

3. The Appellant has retired and did not request any relief other than to have a supervisor, who treated her harshly, punished.

### CONCLUSIONS OF LAW

1. There are no material facts in dispute and the Hearing Officer believes this matter can be decided as a matter of law based on the Appeal Form and the statements of the parties at the two pre-hearing conferences.

2. The Hearing Officer concludes, because the Appellant has retired from state government and does not wish any relief other than to see that a supervisor is punished, there is no relief that the Personnel Board can grant her regarding this appeal. Under these circumstances, the Personnel Board has the authority to dismiss an appeal after a preliminary hearing if it lacks jurisdiction to grant relief. KRS 18A.095(18)(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 **LORI GOODE VS. ENERGY AND ENVIRONMENT CABINET (APPEAL NO. 2016-272)** be **DISMISSED**.

### NOTICE OF EXCEPTION AND APPEAL RIGHTS

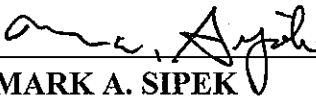
Pursuant to KRS 13.B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) 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).

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 19<sup>th</sup> day of December, 2016.

**KENTUCKY PERSONNEL BOARD**



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

A copy hereof this day mailed to:  
Hon. Leesa Moorman  
Ms. Lori Goode