

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2024-090**

**SHANNON GOODRICH**

**APPELLANT**

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

**TOURISM, ARTS AND HERITAGE CABINET,  
DEPARTMENT OF PARKS**

**APPELLEE**

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The Board, at its regular October 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated August 29, 2025, 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 24<sup>th</sup> day of October, 2025.

**KENTUCKY PERSONNEL BOARD**

  
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**GORDON A. ROWE, JR., SECRETARY**

Copies hereof this day emailed and mailed to:

Hon. Steven G. Bolton, counsel for Appellant  
Hon. Evan B. Jones, counsel for Appellee  
Hon. Rosemary Holbrook (Personnel Cabinet)  
Shawn Estep



**FINDINGS OF FACT and PROCEDURAL BACKGROUND**

1. On or about May 9, 2024, the Appellant was offered the position of Park Desk Clerk at General Butler State Resort Park by the Park Business Manager, Michael Morter, who was employed by the Appellee. [See Appeal Form Statement and May 9, 2024 email communication from Michael Morter, attached as an exhibit to the Appeal Form.]

2. The offer made by Michael Morter was a conditional offer, which depended on the review and approval of the Personnel Cabinet and the Human Resources Department for the Tourism, Arts and Heritage Cabinet.

3. The offer of employment was submitted to the Personnel Cabinet by the Appellee to conduct a Minimum Qualifications Review ("MQR"). After reviewing the Appellant's employment history in state government, the Personnel Cabinet discovered that the Appellant had time and attendance issues when she was previously employed in state government. Specifically, the Appellant was disciplined in various instances for her time and attendance problems, including the following:

- a) written reprimand for time and attendance on 11/1/2006
- b) one-day suspension for time and attendance on 3/4/2016
- c) five-day suspension for time and attendance on 5/8/2016
- d) seven-day suspension for time and attendance on 5/12/2017
- e) ten-day suspension for time and attendance on 9/25/2017

[See Appellee's Motion to Dismiss (the "Motion to Dismiss") filed on November 18, 2024, at p.1.]

4. The Personnel Cabinet also discovered that the Appellant received a rating of "Unacceptable" for her 2017 annual employee performance evaluation during her prior state employment. She was allowed to resign from her position in 2018 in lieu of being terminated. [See Motion to Dismiss at p.2.]

5. After reviewing the information discovered by the Personnel Cabinet, the Appellee determined that the conditions of the offer were not met. Based on the Appellant's work history and past attendance problems, the agency decided she would not be suitable for the position of Park Desk Clerk, and it rescinded its conditional offer of employment on May 23, 2024. [See Motion to Dismiss at p.2; and see Appeal Form at p.2.]

6. The Appellant filed an Appeal with the Personnel Board on June 23, 2024.

7. On the Appeal Form, the Appellant stated that she "was offered a position w/Dept. of Parks on 5/9 and on 5/23 I received a call stating they weren't going to follow through with the hiring process." [See Appeal Form at p. 2.] The Appellant also stated that she

was “being discriminated against over a past issue that was medical related and happened over 6 years ago.” [See Appellee’s statement, which is attached to the Appeal Form.]

8. The Appellant did not mark the box for “discrimination” on her Appeal Form nor did she describe any specific category of illegal discrimination on the Appeal Form. [See Appeal Form.]. She marked the box for “Other” and stated that the Appellee violated KRS 18A.095 regarding her application for employment. As shown above, she alluded to an unspecified, past medical related issue as the reason why she believed she was being discriminated against in her application for the Park Desk Clerk position.

9. The Appellant did not state that the medical related issue was a disability, nor did she state that the Appellee was aware of her medical related issue or any disability she might have.

10. The Appellee timely filed a Motion to Dismiss on November 18, 2024. In its dispositive motion, the Appellee argued the Personnel Board does not have jurisdiction over this matter because the Appellant failed to put forth a *prima facie* case of discrimination. The Appellee contended that, as an applicant, the Appellant could only invoke the Board’s jurisdiction if she made a claim of discrimination. [See Appellee’s Motion to Dismiss (the “Motion to Dismiss”) at p. 3.] The Appellee argued that the Appellant failed to make out a *prima facie* case of discrimination because she failed to show that she has a disability or that any adverse employment action was taken against her because of her disability. [See Motion to Dismiss at p.3, citing *Hallahan v. The Courier-Journal*, 138 S.W.3d 699 (Ky.App. 2004), for elements of *prima facie* disability discrimination case.]

11. The Appellant, through her counsel of record, filed her Response to the Appellee’s Motion to Dismiss (the “Response Brief”) on March 28, 2025. In her Response Brief, the Appellant conceded that the offer of employment was conditional and subject to the MQR but argued that the Appellee was at fault because it was “negligent in its’ [sic] own review of Appellant’s job history.” [See Appellant’s Response Brief at p. 1.] The Appellant offered no evidence (or even more specific allegations) of a disability, the Appellee’s knowledge (or belief) of any disability, or that she was denied employment because of her disability or on the basis of any other discriminatory criteria.

12. The Appellee filed a Reply to Motion to Dismiss (the “Reply Brief”) on April 25, 2025. In its Reply Brief, the Appellee noted that the Response Brief was “devoid of any reference to the elements of a discrimination claim” and also stated that the Response Brief did not identify any discriminatory reason for rescission of the employment offer; it merely accused the Appellee of being negligent in its recruiting and hiring process by failing to discover her past, problematic job history with state government. Unfortunately for the Appellant, even if true, such negligence does not support a claim to state employment for an applicant under KRS Chapter 18A.

**CONCLUSIONS OF LAW**

1. Generally, a conditional offer of employment may be rescinded by an employer when the conditions precedent to acceptance have not been met. The Personnel Board does not have jurisdiction to hear an appeal of the revocation of a conditional offer of employment to a job applicant, absent discrimination.

2. Pursuant to KRS 18A.095, the right of an applicant to appeal to the Personnel Board is limited to applicants who are claiming they were discriminated against in the application process in a manner that would violate state or federal anti-discrimination laws. Specifically, an applicant for state employment “may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, age forty (40) and above, or any other category protected under state or federal civil rights laws.” KRS 18A.095(11).

3. The Appellant has failed to allege or provide any facts that would support a finding of discrimination. In her Appeal Form, the Appellant stated that the time and attendance issues in her prior state employment, which were cited by the Appellee as the reason for withdrawing the conditional offer of employment, were related to a medical issue but she has produced no evidence to show that her medical issue is or was a disability and she has made no showing that the Appellee was aware of her medical condition when it made the decision to rescind the conditional offer of employment.

4. The Appellant cannot make out a *prima facie* case of discrimination based on the above facts. In order to make out a *prima facie* case of discrimination, the party alleging discrimination must prove that:

- a) she is a member of a protected class;
- b) she was subject to an adverse employment action;
- c) she was qualified for the job; and
- d) she was replaced by a person outside the protected class or she was treated differently than similarly situated individuals outside the protected class.

*McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973).

5. As the Appellee correctly asserts, the Appellant has never specifically indicated she is in a protected class, which could end the inquiry in this case. However, she has stated that at the time of her past employment problems, which occurred in 2018, she had time and attendance issues due to a “medical related issue,” which could be liberally construed as a claim for disability discrimination. That claim must fail also because the Appellant has not proven the elements of a *prima facie* case of disability discrimination. In the disability discrimination context, to establish a *prima facie* case, a claimant must show that:

- a) she is disabled or regarded as disabled;

- b) she is otherwise qualified to perform the essential requirements of her job;
- c) her employer knew or had reason to know of the disability;
- d) she suffered an adverse employment action because of her disability.

*Hallahan v. The Courier-Journal*, 138 S.W.3d 699 (Ky.App. 2004).

6. In this appeal, the Appellant has not made out a *prima facie* case of disability discrimination because she has not produced any evidence to show that she has a disability or that the agency knew or had reason to know of her disability. She never informed the Appellee of her medical related condition and there has been no evidence that the Appellee was aware of it. Instead, the Appellee has shown, without contradiction, that it rescinded the offer of employment because it discovered the Appellant's prior work history and past attendance problems.

7. It is well-settled that a motion to dismiss should be granted when the moving party can show that the party who filed the claim "would not be entitled to relief under any set of facts which could be proven in support of his claim." *Morgan v. Bird*, 289 S.W.3d 222, 226 (Ky.App. 2009). A court should rule on a motion to dismiss when the question at issue is purely a matter of law. *James v. Wilson*, 95 S.W.3d 875, 884 (Ky. App. 2002). In this matter, the Appellant has failed as a matter of law to make out a *prima facie* case of disability discrimination. Thus, the Board has no reason to overturn the withdrawal of a conditional offer of employment to the Appellant and this appeal should be dismissed.

### **RECOMMENDED ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Personnel Board that the appeal of **SHANNAN GOODRICH V. TOURISM, ARTS AND HERITAGE CABINET, DEPARTMENT OF PARKS (APPEAL NO. 2024-090)** 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).

**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.

**SO ORDERED** at the direction of the Hearing Officer this 29<sup>th</sup> day of August, 2025.

**KENTUCKY PERSONNEL BOARD**

  
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**GORDON A. ROWE, JR.**  
**EXECUTIVE DIRECTOR**

A copy hereof was emailed and mailed to the following persons at their respective addresses as provided to the Personnel Board on this 29<sup>th</sup> day of August, 2025:

**Hon. Steve Bolton, Counsel for Appellant**  
**Hon. Evan Jones, Counsel for Appellee**  
**Hon. Rosemary Holbrook, Personnel Cabinet**