

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-060**

TRACI HEDRICK

APPELLANT

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

VS.

OFFICE OF THE STATE BUDGET DIRECTOR

APPELLEE

*** **

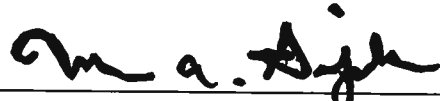
The Board, at its regular January 2024 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated December 6, 2023, and being duly advised,

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 18th day of January, 2024.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day emailed and mailed to:

Traci Hedrick
Hon. Cary Bishop
Hon. Rosemary Holbrook (Personnel Cabinet)
Laura Sharp

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-060**

TRACI HEDRICK

APPELLANT

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

OFFICE OF THE STATE BUDGET DIRECTOR

APPELLEE

** ** * * *

This matter came on for a pre-hearing conference on December 1, 2023, at 10:45 a.m. ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before Hearing Officer Mark A. Sipek. The proceedings were recorded by audio equipment and was authorized by virtue of KRS Chapter 18A.

The Appellant, Traci Hedrick, was not present and was not represented by legal counsel. The Appellee, Office of the State Budget Director, was present and represented by the Hon. Cary Bishop.

The purposes of the pre-hearing conference were to discuss the status of the appeal, including the Appellee's Motion for Recommended Order.

BACKGROUND AND FINDINGS OF FACT

1. The Hearing Officer notes that Appeal No. 2023-060 was filed with the Personnel Board on May 4, 2023. On the appeal form and during the pre-hearing conference, the Appellant, a classified employee with status, indicated she was appealing a dismissal, an involuntary transfer, a layoff, an employee evaluation, and the denial, abridgment, or impediment of her right to inspect or copy records, in addition to advancing claims of sex, political, and age discrimination plus claims of harassment, hostile work environment, intimidation, and retaliation. The Appellant further explained her claims in the narrative portion of the appeal form wherein she states, in full:

I am a Woman over the age of 40. In June of 2020 I after 19yrs as a Merit Employee of the Commoinwealth in Good Standing was Laid-Off and my position was Abolished for Lack of Duties. On April 27th 2023 I was made aware by Cary Bishop via email that I had been involuntarily transferred to another Cabinet. Also, I was made aware during a March 13th 2023 Pre-Conference Hearing for a 2017 Evaluation Appeal that I could have appealed

this “Lay-Off” but I never received any information regarding the appeals process or appeal deadline with the Lay-Off letter. (sic)

2. The Appellee filed a Motion to Dismiss on May 15, 2023, arguing the Personnel Board lacked jurisdiction because the appeal was untimely filed. In its Memorandum in Support, the Appellee described the “Background and General Issue” as follows:

Appellant was last employed by OSBD on July 3, 2020, as an Administrative Specialist II. On June 19, 2020, Appellant was laid-off from her position due to lack of duties and abolishment of her position pursuant to the authority of 2018 Regular Session HB 200 and 2020 Regular Session House Bill 352. The budget bill provisions permit the Personnel Cabinet to “place” employees subject to layoff. As noted in the lay-off letter, the Personnel Cabinet agreed to place Appellant into another position in state government, as permitted by the budget bill. In the Kentucky Human Resources Information System (KHRIS), there are a limited amount of personnel actions that can be used to “place” or move employees between agencies. There is no personnel action in KHRIS entitled “place,” so the vehicle by which the “placement” was carried out in KHRIS was a lateral transfer personnel action. However, this was not a traditional involuntary transfer executed pursuant to 101 KAR 1:335, Section 3, as alleged by the Appellant. It was a layoff placement pursuant to the provisions of the budget bill, for which appropriate appeal rights were provided.

Appellant filed her appeal with the Personnel Board on May 4, 2023. In her appeal, Appellant acknowledged that she was given notice of her lay-off for abolishment and lack of duties in June of 2020. While Appellant checks multiple boxes on the first page of the appeal form, the context of her explanation on the top of page two of the appeal form makes clear that her appeal relates to her 2020 lay-off.

3. A pre-hearing conference was held on May 30, 2023. Counsel for the Appellee argued that the Board lacked jurisdiction as described in its Motion to Dismiss. The Appellant requested an opportunity to respond to the Appellee’s previously submitted motion. The Appellant was granted until September 1, 2023, to submit a response to the Appellee’s motion.

4. Although given the opportunity to respond to the Appellee’s motion, the Appellant did not file a response.

5. On September 7, 2023, the Appellee filed a Motion for a Recommended Order.

6. A pre-hearing conference was held on December 1, 2023, which the Appellant did not attend. She had not asked for a continuance. She also had not filed a response to the Appellee’s Motion to Dismiss or to the Appellee’s Motion for a Recommended Order. Three (3) days before

the December 1, 2023 pre-hearing conference, the Appellant relayed to Personnel Board staff that she would appear by telephone at the pre-hearing conference. The Appellant did not respond to four (4) separate phone calls from the Hearing Officer to the Appellant or to text messages to the numbers she provided. Although the pre-hearing conference was scheduled to start at 10:00 a.m., as a result of efforts to contact the Appellant, the pre-hearing conference did not start until 10:45 a.m.

7. The Appellant received notice that she was laid off from her position as an Administrative Specialist II with the Office of the State Budget Director (OSBD) on June 19, 2020. The Appellant was given notice that she had sixty (60) days to file an appeal with the Personnel Board from this action.

8. The Appellant last worked for the Appellee on July 3, 2020.

9. The Appellant was offered employment with another state agency in accordance with the state's layoff plan. She declined this offer.

10. The Appellant did not file an appeal from her layoff or her offer of employment until she filed this appeal with the Personnel Board on May 4, 2023.

11. There are no material facts in dispute and this appeal can be decided based on the appeal form, the Appellee's Motion to Dismiss, and the statements of the parties at the pre-hearing conference.

CONCLUSIONS OF LAW

1. The Appellant received notice of her layoff on June 19, 2020, and had sixty (60) days to file an appeal with the Personnel Board from this action. KRS 18A.095(8).

2. Even if the Appellant did not receive notice of her layoff, she had one (1) year to file an appeal with the Personnel Board. KRS 18A.095(29).

3. Because the Appellant's appeal was filed with the Personnel Board well beyond any statute of limitations for appealing her layoff and any associated actions or claims, the Personnel Board lacks jurisdiction to hear this appeal. KRS 18A.095(18)(a).

4. There are no material facts in dispute and this appeal can be decided as a matter of law KRS 13B.090(2).

5. Because all of the events associated with this appeal occurred before the passage of Senate Bill 153, this case has been decided based on the provisions of KRS Chapter 18A in effect at the time.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Kentucky Personnel Board that the appeal of **TRACY HEDRICK V. THE OFFICE OF THE STATE BUDGET DIRECTOR (APPEAL NUMBER 2023-060)** 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).

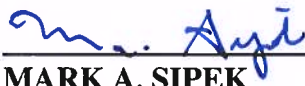
The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

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.

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

SO ORDERED at the direction of the Hearing Officer this 6 day of December, 2023.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day emailed and mailed to:

Traci Hedrick
Hon. Cary Bishop
Hon. Rosemary Holbrook (Personnel Cabinet)