

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2013-053

SAUNDRA M. JACKSON

APPELLANT

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

CABINET FOR HEALTH AND FAMILY SERVICES  
J.P. HAMM, APPOINTING AUTHORITY

APPELLEE

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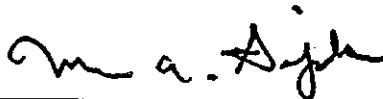
The Board at its regular September 2013 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated August 8, 2013, and being duly advised,

**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 17<sup>th</sup> day of September, 2013.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Carrie Cotton  
Saundra M. Jackson  
J.P. Hamm

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2013-053**

**SAUNDRA M. JACKSON**

**APPELLANT**

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

**CABINET FOR HEALTH AND FAMILY SERVICES,  
J. P. HAMM, APPOINTING AUTHORITY**

**APPELLEE**

\*\* \*\* \*

This matter came on for a pre-hearing conference on May 31, 2013, at approximately 10:30 a.m., ET, at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Boyce A. Crocker, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Sandra Jackson, was present by telephone and was not represented by legal counsel. The Appellee, Cabinet for Health and Family Services (CHFS), was present and represented by the Hon. Michael Board.

The purposes of the pre-hearing conference were to determine the status of the appeal. The Hearing Officer notes there was an earlier pre-hearing conference held on April 30, 2013. At that pre-hearing conference, Appellant and the Appellee, Cabinet for Health and Family Services, had agreed that then Appellee, Personnel Cabinet, could be dismissed as a party, which was done.

At this pre-hearing conference, the Appellee, Cabinet for Health and Family Services, stated there had been a decision made at the facility level to not offer re-employment to Appellant Jackson.

The Appellant indicated that when she had left Hazelwood in 2012, she had signed a document indicating she would be "rehirable." As it developed, Appellant had apparently executed a resignation form, and indicated on the resignation form she was resigning due to medical reasons. Appellant stated she could not locate this form at the time of the pre-hearing conference. The Hearing Officer discussed this matter with counsel for the Appellee, who indicated that, in accordance with the Hearing Officer's wishes, he will attempt to locate these forms and send copies of those forms to the Appellant. The Appellee indicated it would also be filing a motion to dismiss.

In accord with that Interim Order, as noted, the Appellee filed a motion to dismiss. The Appellant, although given more than ample time in which to do so, did not file a response. This

matter is before the Hearing Officer for a ruling on the Appellee's Motion to Dismiss, which was filed with the Personnel Board on June 5, 2013.

### **BACKGROUND**

1. Appellant, Saundra M. Jackson, resigned from her employment at Hazelwood in 2012.
2. Subsequent to her resignation, the Appellant had sought at unspecified times to be rehired at Hazelwood, but was unsuccessful.
3. The Appellee, Cabinet for Health and Family Services, filed a Motion to Dismiss on June 5, 2013, in which it stated that the sole basis of this appeal is the Appellant's resignation from Hazelwood and subsequently not being rehired at the facility.
4. The Appellee noted that appeals to the tribunal (the Personnel Board) are governed by KRS 18A.095.
5. Counsel for the Appellee further noted that during the pre-hearing conference held on May 31, 2013, the Appellant did not state she was claiming any sort of discrimination.
6. Though given ample time in which to do so, the Appellant did not file a response to the motion to dismiss.
7. KRS 18A.095(14) states, as follows:
  - (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board.
  - (b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board.
  - (c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly.
  - (d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

**FINDINGS OF FACT**

1. The Appellant, Saundra M. Jackson, resigned from her employment at Hazelwood in 2012.
2. The Hearing Officer finds that the Personnel Board lacks jurisdiction to consider this appeal, as the Appellant has not stated a matter over which the Personnel Board has jurisdiction or one in which it can grant relief.
3. The Hearing Officer finds that the Appellant had resigned her position with Hazelwood in 2012. The Hearing Officer finds that Appellant's attempts, subsequent to her resignation, to be rehired at Hazelwood were not successful.
4. The Hearing Officer finds, based upon Appellant's statements made at the pre-hearing conference and lack of any allegation contained in the appeal form, that no sort of protected class discrimination is being claimed by the Appellant.
5. The Hearing Officer finds that pursuant to KRS 18A.095(18)(a), the Personnel Board lacks jurisdiction to grant relief in this matter, after having held two pre-hearing conferences to determine the exact nature of the appeal.

**CONCLUSION OF LAW**

The Hearing Officer concludes that as the nature of the appeal does not state claim over which the Personnel Board has jurisdiction, nor one in which it could grant relief.

**RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **SAUNDRA M. JACKSON V. CABINET FOR HEALTH AND FAMILY SERVICES, (APPEAL NO. 2013-053)** 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 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).

**Any document filed with the Personnel Board shall 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 **Hearing Officer Boyce A. Crocker** this 8<sup>th</sup> day of August, 2013.

**KENTUCKY PERSONNEL BOARD**

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

A copy hereof this day mailed to:

Hon. Michael Board  
Ms. Saundra Jackson