

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-131

JASON JETT

APPELLANT

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

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE

APPELLEE

*** *** *** *** ***

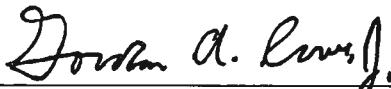
The Board, at its regular May 2024 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated April 9, 2024, and being duly advised,

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 17th day of May, 2024.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

Jason Jett
Hon. Jarrett Rose
Hon. Rosemary Holbrook (Personnel Cabinet)
Melanie Jenkins

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This matter came on for a pre-hearing conference on November 28, 2023, at 10:30 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, Jason Jett, was present, and was not represented by legal counsel. The Appellee, Justice and Public Safety Cabinet, Department of Juvenile Justice, was present and was represented by the Hon. Jarrett Rose. Both parties appeared by telephone.

The purposes of the pre-hearing conference were to determine which version of KRS Chapter 18A applies to this appeal, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

BACKGROUND AND FINDINGS OF FACT

1. The Appellant filed his appeal with the Personnel Board on September 22, 2023. He stated he was appealing based on salary discrimination pursuant to KRS 18A.095 and 101 KAR 2:034. He provided the following statement of facts on his Appeal Form:

I am filing this grievance based on the recent pay raises that were given on 7-1-23. I was given a 6% raise, however JFMI Dennis Moore and JFMII Jason Little were given a 6% percent as well as an extra 1000\$ month monthly salary increase. However according to KAR Title 101 2:034, the appointing authority shall adjust that salary an employee who is earning less than the new appointee's salary, if the appointing authority determines that the incumbent employee: is in the same job classification, is in the same work county, is in the same department or office and has similar combination of education and experience relating to the relevant job class spec. I feel as if all these apply in my case. (sic)

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2. At the pre-hearing conference, counsel for the Appellee stated he did not believe that the Personnel Board had jurisdiction over this appeal. A schedule was set for dispositive motions.

3. The Appellant filed this appeal alleging he should receive the same salary as other Juvenile Facility Managers. He stated there was a Juvenile Facility Manager I in his same county who received a salary increase while the Appellant did not. The Appellant is of the opinion that he has similar work experience and education and that they work in the same job classification, same county, and same department.

4. The Appellant believes he should receive a similar pay increase and bases his appeal upon 101 KAR 2:034 and Kentucky Senate Bill 162. The Appellant did not allege any type of protected class discrimination on his Appeal Form or at the pre-hearing conference.

5. In its Motion to Dismiss, the Appellee stated as follows:

The Appellant's claim under 101 KAR 2:034 is erroneous:

The Appellant claims that under 101 KAR 2:034 that his job classification, a Juvenile Facilities Manager I, is subject to a salary increase. 101 KAR 2:034 is a regulation dealing with classified compensation (*See* 101 KAR 2:034.) In the Bill, DJJ was appropriated approximately 4.8 million dollars to provide salary increases to certain job classifications within the department. DJJ targeted positions with high turnover rates and compression issues, therefore only Juvenile Facility Managers of Detention Centers and *not* Day Treatment Centers, Group Home, and YDCs received the salary increase, due to the strenuous and potentially hazardous nature of working in a detention facility. Further, the Bill changed the offices under which DJJ facilities were governed.

The Office of Detention was created and thus separated the governance of Detention Facilities into their own office (*See Kentucky Senate Bill Sec. I (c) (4)*), while youth development centers, group homes, and day treatment centers remain under auspices the Office of Program Operations. Since the offices differ, the statutory provisions of Senate Bill 162 would not apply to any facility still under the authority of the Office of Program Operations. Appellant is listed as holding the position of Juvenile Facilities Manager I, but holds this position at the Breathitt Day Treatment Center (which is operated under the office of Program Operations) and not at a detention center. Therefore, under the provisions of Senate Bill 162, Appellant is not entitled to such salary increase based on the nature of his work and his work location, and not merely on his job title alone.

6. Although given an opportunity to respond to the Appellee's Motion to Dismiss, the Appellant failed to do so.

7. The pay raise that the Appellant did not receive was given to other employees on July 1, 2023.

8. The Appellant was not eligible for a salary increase under the provisions of Kentucky Senate Bill 162.

9. As a result of the provisions of Kentucky Senate Bill 153, the Personnel Board no longer has jurisdiction over salary claims.

10. 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. As a result of the changes to KRS Chapter 18A in Senate Bill 153, the Personnel Board no longer has jurisdiction over salary claims or any other claims previously defined as penalizations. KRS 18A.005 and KRS 18A.095.

2. Because the Personnel Board lacks jurisdiction, this appeal can be dismissed as a matter of law without an evidentiary hearing. KRS 13B.090(2) and KRS 18A.095(16)(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 **JASON JETT VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE (APPEAL NO. 2023-131)** 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).

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


MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day emailed and mailed to:

Hon. Jarrett Rose
Jason Jett
Hon. Rosemary Holbrook (Personnel Cabinet)