

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2025-037

JOEL REAMS

APPELLANT

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

TRANSPORTATION CABINET

APPELLEE

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

The Board, at its regular November 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated October 27, 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 21st day of November, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

Joel Reams, counsel for Appellant
Hon. William Fogle, counsel for Appellee
Hon. Rosemary Holbrook (Personnel Cabinet)
J. R. Dobner

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2025-037**

JOEL REAMS

APPELLANT

v.

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

TRANSPORTATION CABINET

APPELLEE

* * * * *

This matter last came on for a pre-hearing conference on September 16, 2025, at 1:30 p.m., EST, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Gordon A. Rowe, Jr., Executive Director/Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The appellant herein, Joel Reams (the “Appellant”), was present for the conference by telephone and was not represented by legal counsel. The appellee herein, the Transportation Cabinet (the “Appellee”), was represented at the conference by the Hon. William Fogle, who also appeared by telephone.

The Hearing Officer opened the pre-hearing conference by introducing the issues to be discussed at the conference: a) the jurisdiction of the Personnel Board to hear and rule upon the pay disparity claim raised in the appeal; b) the Appellee’s motion to dismiss and any responses and replies thereto; and c) next steps in the appeal.

The Appellant is a Highway Technician I in the Traffic Sign Shop. He has alleged that several state highway employees who work out of the same location and share some of the same duties, but are part of the maintenance crew, receive a \$5.00 per hour locality premium that he does not receive.

Prior to the initial pre-hearing conference, the Appellee, by counsel, filed a motion to dismiss this appeal on the grounds that the Personnel Board does not have jurisdiction to hear the appeal since, after passage of Senate Bill 153 (“SB 153”), KRS 18A.095 no longer authorizes the Board to hear cases based on alleged salary inequities or salary disputes. In support of its motion to dismiss, the Appellee cited to a recent Personnel Board appeal also involving a salary dispute,

which was dismissed by the Board following a dispositive motion on the issue of jurisdiction. *See Christopher Pollett v. Transportation Cabinet* (KY PB Case No. 2024-072).

During the initial pre-hearing conference (July 22, 2025), the Hearing Officer gave the Appellant until September 5, 2025, to file a response to the Appellee's Motion to Dismiss. The Appellant filed a responsive brief on August 29, 2025, and the Appellee filed its Reply Brief on September 2, 2025. During the September 16, 2025 pre-hearing conference, the Appellee reiterated its jurisdictional argument. The Appellant argued that a locality premium should be viewed differently by the Board because it is not part of base pay. After some discussion, the Hearing Officer stated that he would review the Appellee's motion, the responsive briefs, and the record in the appeal and then issue a recommended order on the motion to dismiss.

After reviewing the submissions of the parties, listening to related arguments, and for the reasons more fully explained below, the Hearing Officer recommends the Personnel Board dismiss this appeal. After the passage of SB 153, which took effect on June 29, 2023, the Personnel Board lacks jurisdiction to hear appeals based on salary adjustments or pay inequity. Accordingly, the Appellee's motion is well-taken and this appeal should be dismissed on jurisdictional grounds.

FINDINGS OF FACT and PROCEDURAL BACKGROUND

1. The Appellant is a classified employee with status. The Appellant is employed by the Appellee as a Highway Technician I in District 6. [See Appeal Form at p. 2].

2. The Appellant filed his appeal with the Personnel Board on March 18, 2025. In his appeal, the Appellant argued that he should receive a pay increase equivalent to the \$5.00 per hour locality premium received by the maintenance crew employees in his work location. He complained that he shares similar duties to these other employees and therefore should receive the same locality premium. [See Appeal Form at p. 2.]

3. On July 17, 2025, prior to the initial pre-hearing conference, the Appellee filed a motion to dismiss this appeal (the "Motion to Dismiss") on the grounds that the Personnel Board does not have jurisdiction to hear this appeal. In its motion, the Appellee argued that due to SB 153, passed during the 2023 legislative session and taking effect on June 29, 2023, the Personnel Board no longer has jurisdiction to hear appeals involving salary inequity claims or requesting salary adjustments due to such alleged inequities.

4. The Appellant filed a response to Appellee's Motion to Dismiss on August 29, 2025. In its response, the Appellant argued that he should receive a pay increase equivalent to the \$5.00 per hour locality premium because his appointing authority has the power to make salary

adjustments where there are internal pay equity issues or sustained recruitment issues. [See Appellant's written brief filed on August 29, 2025 (the "Response Brief") in response to the Motion to Dismiss, at p.1.] The Appellant cited 101 KAR 2:034, Section 3 in support of his argument. It must be noted that 101 KAR 2:034, Section 3 is discretionary, stating that the appointing authority may make such salary adjustments, if funds are available. It is not required to do so.

5. Alternatively, the Appellant argued that consideration of the locality premium is included within Personnel Board jurisdiction because it is not part of base salary. [See Response Brief at p.2.]

CONCLUSIONS OF LAW

1. It is well-established that a motion to dismiss should only be granted if 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). The pleadings filed by the claiming party "should be liberally construed in the light most favorable to the plaintiff, all allegations being taken as true." *Pari-Mutuel Clerks' Union of Kentucky, Local 541, SEIU, AFL-CIO v. Kentucky Jockey Club*, 551 S.W.2d 801, 803 (Ky. 1977). 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).

2. There is no genuine issue of material fact in this case. The facts asserted by Appellant are not disputed at all. The only question before the Personnel Board is whether the Appellant's exclusion from the locality premium paid to maintenance workers in his work location, constitutes the type of personnel action over which the Board has jurisdiction. That question must be answered in the negative.

3. The Appellant has not established that the Appellee violated KRS 18A.095 in regard to his employment. The Appellant was not subjected to any of the personnel actions specifically listed under KRS 18A.095 for review by the Board.

4. Under KRS Chapter 18A, the Personnel Board only has jurisdiction over the following types of action involving state employees: an "employee who is dismissed, demoted, suspended without pay, or involuntarily transferred may, within thirty (30) calendar days" of those specific personnel actions, appeal the action to the Personnel Board. KRS 18A.095(9). In addition, an employee who has been subjected to a discriminatory action based on their protected class status may appeal any such action to the Personnel Board within thirty (30) calendar days of the action. KRS 18A.095(11).



5. The Personnel Board does not have authority to hear any appeal not specifically authorized by KRS Chapter 18A. In fact, the Personnel Board is **required** to dismiss any appeal in which it determines “it lacks jurisdiction to grant relief.” KRS 18A.095(16)(a).

6. The Appellant has not been dismissed, demoted, suspended without pay, involuntarily transferred, or denied any other rights he is entitled to under KRS 18A.095.

7. Senate Bill 153 of the 2023 Kentucky legislative session expressly removed the Personnel Board’s authority to hear appeals involving “salary adjustments” and the catch-all category of “other penalizations.”

8. After passage of SB 153, it is clear the Personnel Board cannot hear appeals involving salary claims, or other pay disputes, unless otherwise specifically authorized. *Christopher Banks, Appellant v. Justice and Public Safety Cabinet, Department of Juvenile Justice, Appellee*, 2024 WL 1765101, at *2 (KY PB 2023-0134).

9. The Appellant has not claimed that he is being paid less than his coworkers based on his membership in a protected class recognized by state or federal civil rights laws.

10. Regarding the locality premium at issue here, awarding the premium is under the exclusive jurisdiction of the Secretary of the Personnel Cabinet. Kentucky Administrative Regulations make it clear that the Secretary of the Personnel Cabinet “may authorize the payment of a locality premium for an employee...in a job classification...where the agency can demonstrate sustained recruitment and retention issues.” The locality premium, if authorized applies to all employees...in the job classification and work county for which the locality premium is approved.” 101 KAR 2:034, Section 9(1). Thus, this determination is within the sole discretion of the Secretary of the Personnel Cabinet, and it is not subject to review by the Personnel Board.

11. Therefore, the Personnel Board is without jurisdiction in this appeal and the Appellee is entitled to judgment as a matter of law, pursuant to KRS 18A.095(16)(a) and KRS 13B.090(2).

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 **JOEL REAMS V. TRANSPORTATION CABINET (APPEAL NO. 2025-037)** 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 27th day of October 2025.

KENTUCKY PERSONNEL BOARD



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 27th day of October 2025:

Joel Reams, Appellant
Hon. William H. Fogle, Counsel for Appellee
Hon. Rosemary Holbrook, Personnel Cabinet