

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-086**

BENJAMIN WILLIAMS

APPELLANT

v.

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

FINANCE AND ADMINISTRATION CABINET

APPELLEE

** ** ** ** **

This matter is before the Hearing Officer on the Appellee Finance and Administration Cabinet's (the "Appellee") Motion for Summary Judgment. The appeal last came before the Hearing Officer in a pre-hearing conference on January 23, 2025, which was held at 11:00 a.m., ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Gordon A. Rowe, Jr. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The appellant, Benjamin Williams (the "Appellant"), was present at the pre-hearing conference, appearing by Zoom videoconferencing, and was not represented by legal counsel. The Appellee, Finance and Administration Cabinet, was present via Zoom video conferencing and was represented by the Hon. Cary Bishop, the Hon. Shan Dutta, and the Hon. Ashley Daily.

At issue in this appeal is the Appellant's request to be reclassified to the position of Property Assessment Coordinator IV. During the January 23, 2025, pre-hearing conference, the parties discussed the Appellee's Motion for Summary Judgment, which was filed on November 12, 2024. The Hearing Officer noted that the Appellant did not file a response to the Appellee's Motion for Summary Judgment. The Hearing Officer asked the Appellant (and his colleagues present during the pre-hearing conference) whether he wanted to raise any arguments or cite to any facts that might preclude judgment as a matter of law on the issue of jurisdiction. The Appellant responded in the negative. The Hearing Officer informed the Appellant (and other parties present) that he was considering the Motion for Summary Judgment and would render a decision based on the arguments in the motion and any material facts that had become part of the record. For the reasons set forth herein, the Hearing Officer finds the Appellee's Motion for Summary Judgment well-taken on the issue of jurisdiction and recommends the appeal be **DISMISSED** by the Personnel Board.

PROCEDURAL BACKGROUND

1. The appeal was filed by the Appellant on June 15, 2024. The Appellant alleged in his appeal form that the Appellee violated his rights under KRS 18A.095 and 101 KAR 1:400

by reclassifying one of his coworkers to the job classification of Property Assessment Coordinator IV, without reclassifying him to that same position. The Appellant argued this reclassification was unfair because his colleague had “5 years less experience” and the Appellant met “all the qualifications for the position of Property Assessment Coordinator IV.” [See Appeal Form at p.2.]

2. On November 12, 2024, the Appellee filed a motion for summary judgment, in which it argued that the Personnel Board did not have jurisdiction to hear the appeal essentially because no action had been taken against the Appellant that violated KRS 18A.095 or any other provision of KRS Chapter 18A.

3. The Appellant did not file a response to the Appellee’s Motion for Summary Judgment. Pursuant to the Hearing Officer’s prior Interim Order of September 26, 2024, any response to the Motion for Summary Judgment was due to be filed within forty-five (45) days of the date the Motion for Summary Judgment was filed, or no later than December 27, 2024.

STATEMENT OF UNDISPUTED FACTS

1. The Appellant is employed as a Property Assessment Coordinator III by the Department of Revenue, which is part of the Finance and Administration Cabinet. The Appellant has been an employee of the Revenue Department for over sixteen (16) years.

2. The Appellant filed this appeal with the Personnel Board on June 15, 2024. In his appeal form (the “Appeal Form”), the Appellant alleged that his employer, the Appellee, violated KRS 18A.095 and 101 KAR 1:400. He explained in a statement that he was appealing the reclassification of a coworker to a higher grade (Property Assessment Coordinator IV) who “has five years less experience at this job than I do.” The Appellant also attached to his Appeal Form a copy of an internal grievance regarding the reclassification wherein he stated that:

“On July 13, 2021 I was on a Microsoft Teams meeting where I was told if we meet the requirements we would be re-classed to Property Assessment Coordinator.”

“On April 25, 2024, I discovered that a colleague of mine had been re-classed to Property Assessment Coordinator IV.”

3. The Appellant was not reclassified and remains in the position of Property Assessment Coordinator III.

4. The Appellant has not been demoted, suspended, involuntarily transferred, or dismissed by the Appellee nor has the Appellant’s salary been reduced by the Appellee.

5. The Appellant has not alleged that the reclassification of his coworker or the denial of his reclassification was based upon his membership in any protected class or otherwise constitutes any type of prohibited discrimination.

6. The Appellee has not disputed the facts asserted by the Appellant. Instead, the Appellee contends that the basis of the appeal is outside the jurisdiction of the Personnel Board.

CONCLUSIONS OF LAW

1. Summary judgment should be entered when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. Kentucky Rules of Civil Procedure (“CR”) 56.03; *Steelvest, Inc. v. Scansteel Service Center, Inc.*, 807 S.W.2d 476, 482 (Ky. 1991). The movant should only be granted summary judgment when the right to judgment as a matter of law is “shown with such clarity that there is no room left for controversy.” *Steelvest*, 807 S.W.2d. at 482. A party opposing a motion for summary judgment must present “at least some affirmative evidence showing that there is a genuine issue of material fact for trial.” *Id.* At 482.

2. There is no genuine issue of material fact in this case. The facts are not disputed at all. The only question before the Personnel Board at this juncture is whether the Board has jurisdiction to hear the appeal, which is a question of law.

3. The Appellant has not established that the Appellees has violated KRS 18A.095 in regard to his employment. The Appellant has not been subjected to any of the personnel actions specifically listed under KRS 18A.095 for review by the Board, which include: a) dismissal, b) demotion, c) suspension, d) involuntary transfer, and e) protected class discrimination.

4. Under the version of KRS Chapter 18A in effect at the time the Appellant filed his appeal,¹ 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. The Appellee’s action of reclassifying the Appellant’s coworker to the higher-grade position of Property Assessment Coordinator IV and/or denying his reclassification to that same position does not constitute an impermissible, adverse personnel action against the Appellant since his salary was not reduced or otherwise affected. *See Allen v. Justice and Public Safety Cabinet*,

¹ KRS Chapter 18A was amended by the Kentucky Legislature, effective June 29, 2023. Among other changes, the category of other penalizations was removed from KRS 18A.095 as a basis for the Personnel Board’s jurisdiction.

Department of Corrections, Appeal No. 2022-146, 2023 WL 4404751 at *3 (KY PB June 13, 2023).

8. The Appellant does not have the right to challenge the lack of (or denial of) reclassification that in no way adversely affected the Appellant's salary, benefits or position.

9. KRS 18A.095(10) explains the right of a state employee to challenge a reclassification. Based on the plain language of that subsection, the right to make such a challenge is limited to an employee who has experienced "reclassification to a lower grade." KRS 18A.095(10)(a)2.

10. The Appellant has not been reclassified to a lower grade position; he has remained in his same position of Property Assessment Coordinator III, with the same salary and benefits he had before his coworker's reclassification.

11. KRS 18A.095 clearly limits reconsideration of reclassification decisions to the Secretary of the Personnel Cabinet. KRS 18A.095(10). KRS 18A.095 plainly states that the Secretary of the Personnel Cabinet has final authority to consider reclassification actions made by state agencies and her determination regarding such actions is "final and shall not be appealable to the Personnel Board." KRS 18A.095(10)(b).

12. Even if the Appellant's appeal is regarded as a request for a salary adjustment, this Board would not have jurisdiction. Senate Bill 153 (SB153) 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" under KRS 18A.095.

13. After passage of SB 153, it is clear the Personnel Board cannot hear appeals involving salary claims, salary adjustments, or other salary 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).

14. Finding no violation of KRS 18A.095, the Personnel Board does not have jurisdiction to grant the relief sought by the Appellant, and the Appellee is entitled to judgment as a matter of law.

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 **BENJAMIN WILLIAMS V. FINANCE AND ADMINISTRATION CABINET (APPEAL NO. 2024-086)** 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 the Hearing Officer this 6th day of June, 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 6th day of June, 2025:

Benjamin Williams, Appellant
Hon. Shandeep Dutta, Counsel for Appellee
Hon. Cary Bishop, Counsel for Appellee
Hon. Ashley Daily, Counsel for Appellee