

ORDER OF THE STATE PERSONNEL BOARD

DAVID R. GREEN,

Complainant,

vs.

DEPARTMENT OF CORRECTIONS,

Respondent.

The State Personnel Board (the "Board") met in public session on October 16, 2001. During this public session, the Board considered the record on appeal, including but not limited to:

1. Initial Decision of the Administrative Law Judge
2. Complainant-Appellant's Opening Brief
3. Respondent's Opening Brief
4. Interim Order Denying Motion to Strike Respondent's Opening Brief, in Part (with Motion to Strike Respondent's Opening Brief)
5. Complainant's Response to Respondent's Opening Brief
6. Respondent's Reply Brief
7. Complainant's Reply Brief

As a preliminary matter, the Board voted to deny Complainant's request for oral argument. This order represents the affirmative vote of the following Board members: Elizabeth Salkind, Linda Siderius, John Zakhem, and Joyce Lottner. Melanie Daly was absent.

After discussion of the appeal, the Board voted to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge ("ALJ"), with the addition of an award of interest on back pay. In affirming the ALJ's order rescinding Respondent's action and reinstating Complainant with full back pay and benefits, and for a period of four months, forward pay and benefits, the Board found that Respondent's action in terminating Complainant was arbitrary, capricious, or contrary to rule or law and that attorney fees were not warranted.

This order represents the affirmative vote of the following Board members: Elizabeth Salkind, Linda Siderius, John Zakhem, and Joyce Lottner. Melanie Daly was absent.

Dated this _____ day
Of October, 2001.

Joyce Lottner
Acting Board Chair
State Personnel Board
1120 Lincoln Street, Suite 1420
Denver, CO 80203

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by this decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11), C.R.S. (2001), as provided in Section 24-50-125.4(3), C.R.S. (2001).

In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.

CERTIFICATE OF MAILING

This is to certify that on the _____ day of October, 2001, I placed true copies of the foregoing ORDER OF THE STATE PERSONNEL BOARD, in the United States mail, postage prepaid, addressed as follows:

Darrell D.B. Damschen, Esq.
Frank & Finger
29025D Upper Bear Creek Road
P.O. Box 1477
Evergreen, CO 80437-1477

And in the interagency mail, addressed as follows:

Stacy L. Worthington
First Assistant Attorney General
Employment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
