THE WEST VIRGINIA
PUBLIC EMPLOYEES GRIEVANCE BOARD

SHERRY LYNN HYLTON,
Grievant,

v. **Docket No. 2011-1774-DHHR**

DEPARTMENT OF HEALTH AND HUMAN RESOURCES/JACKIE WITHROW HOSPITAL and DIVISION OF PERSONNEL,
Respondents.

DISMISSAL ORDER

On March 18, 2013, Respondent, by counsel, Harry C. Bruner, Jr., Assistant Attorney General, submitted a *Motion to Dismiss* in the above-styled grievance matter. In the Motion, Respondent provided that Grievant voluntarily retired on October 26, 2012. A recent West Virginia Supreme Court case, *Joseph Komorowski v. Marshall County Board of Education*, No. 11-1659 and 11-1767 (Kanawha County 11-AA-52 and 09-AA-67), renders this grievance moot because Grievant retired before the Grievance Board decided this matter. Moot questions or abstract propositions, the decisions of which would avail nothing in the determination of controverted rights of persons or property, are not proper issues before the Public Employees Grievance Board. This grievance is moot. Accordingly, the grievance is **DISMISSED.**

Any party may appeal this Dismissal Order to the Circuit Court of Kanawha County. Any such appeal must be filed within thirty (30) days of receipt of this Dismissal Order. *See* W. VA. CODE § 6C-2-5. Neither the West Virginia Public Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal and should not be so named. However, the appealing party is required by W. VA. CODE § 29A-5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the certified record can be prepared and properly transmitted to the Circuit Court of Kanawha County. *See also* 156 C.S.R. 1 § 6.20 (2008).

Additionally, the Level Three hearing previously scheduled for March 27, 2013, has been canceled.

Entered this the 27th day of March, 2013.

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Billie Thacker Catlett, Administrative Law Judge
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