



**BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS**



IN THE MATTER OF:

Janet Duenas,

Employee,

vs.

**Department of Education,
Management.**

**ADVERSE ACTION
CASE NO. 12-AA17S**

DECISION AND JUDGMENT

I. INTRODUCTION

The above captioned matter arises from an August 23, 2012 adverse action taken by Department of Education ("DOE") management against Janet Duenas ("Employee"). Employee appealed ^{her} the adverse action with the Civil Service Commission ("Commission") on September 14, 2012, exactly twenty-two (22) days later. The DOE then moved to dismiss Employee's appeal on the basis it was not timely filed. Employee filed an opposition to DOE's motion. The matter came before the CSC on November 20, 2012. Employee, who was representing herself *pro se*, did not appear. Present at the hearing for DOE Management were Employee/Management Relations Officer Robert E. Koss and deputy superintendant Ericka Cruz. Pursuant to CSC AA R 9.1, the Commission did not hear oral argument and instead deliberated and granted the motion to dismiss after considering only the briefs filed.

1
2
3
4
5
6
7
8
9
10
11
12
13

II. JURISDICTION

The jurisdiction of the Commission is based upon the Organic Act of Guam, 4 G.C.A., et seq., and the Guam Personnel Rules and Regulations.

III. FACTUAL BACKGROUND

1. On August 23, 2012, DOE issued a Final Notice of Adverse Action against Employee that suspended her for two (2) days for the reasons set forth therein.
2. Employee filed an appeal of the Final Notice of Adverse Action with the Civil Service Commission on September 14, 2012 or twenty-two (22) days after the effective date of the action.
3. Four GCA 4406 and CSC Rule 5.2 require that an appeal from an adverse action must be filed with the Commission within twenty (20) days of the employee's receipt of the final notice of adverse action.

IV. FINDINGS

14 The Commission finds that Employee has untimely filed her appeal on the 22nd day after
15 she received the Final Notice of Adverse Action or two (2) days beyond the allowable time
16 period. The Commission may not excuse the filing an appeal beyond the allowable twenty (20)
17 day period, even if the employee proves a compelling reason for her failure to timely file. Here,
18 no such compelling reason was presented anyway. By filing an appeal beyond the allowable
19 twenty day period, the Employee has divested the Commission of its jurisdiction from further
20 review of this matter. *See Guam Public School System v. Narcisco and CSC, Superior Court of*
21 *Guam, Special Proceedings Case No. SP2450-08, Sept. 2009.*

V. HOLDINGS

23 The Civil Service Commission, by a vote of 4-0 rules in favor Management. Furthermore,
24 the Civil Service Commission holds that it lacks subject matter jurisdiction to hear the case and
25 Employee's appeal is DISMISSED with prejudice.

SO ORDERED THIS 24th day of January 2013 as determined by a vote of

4-0 on November 20, 2012.

Luis R. Baza
LUIS R. BAZA
Chairman

Manuel R. Pinauin
MANUEL R. PINAUIN
Vice-Chairman

Priscilla T. Tunca
PRISCILLA T. TUNCA
Commissioner

John Smith
JOHN SMITH
Commissioner

Lou Hongyee
LOU HONGYEE
Commissioner

Daniel D. Leon Guerrero
DANIEL D. LEON GUERRERO
Commissioner

Edith C. Pangelinan
EDITH C. PANGELINAN
Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25