



BEFORE THE  
GUAM CIVIL SERVICE COMMISSION  
BOARD OF COMMISSIONERS



IN THE MATTER OF:

**KEN A. YOSHIDA**

**Employee,**

vs.

**PORT AUTHORITY OF GUAM,**

**Management.**

**ADVERSE ACTION APPEAL  
CASE NO. 14-AA18S**

**DECISION AND ORDER**

This matter came before the Civil Service Commission (the "Commission") on Employee Ken Yoshida's ("Employee's") Motion to Dismiss and the Port Authority of Guam Management's ("Management") Request for Evidentiary Hearing during its regularly scheduled meeting on October 16, 2014. Present for Management was its General Manager Joanne Brown and counsels of record, Michael Phillips, Esq. and John Bell, Esq., of Phillips & Bordallo, P.C. Also present were Employee and her lay representative, Mr. David Babauta.

**I.  
ISSUES**

1. Should the Commission grant Employee's Motion to Dismiss for violation of the 60-day Rule?
2. Should the Commission grant Management's Request for an Evidentiary Hearing?

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**II.  
HOLDING**

1. Employee failed to show by a preponderance of the evidence that his motion should be granted. By a vote of 5-1, Employee's Motion to Dismiss fails.

2. An Evidentiary Hearing regarding Management's compliance with the 60-Day rule is unnecessary. Thus, Management's request is rendered moot and need not be heard.

**III.  
FACTS**

1. Management alleged that on April 23, 2014, Employee improperly left his job assignment and conducted business without authorization from his supervisor during on-going vessel operations.

2. Management served Employee notice of the final notice of adverse action on June 19, 2014.

3. Management appears to notified Yoshida of its decision to suspend Yoshida within the time allowed by law and Yoshida was not permitted to return to work until July 15, 2014. Management appears to have acted within the time allowed and required by 4 G.C.A. § 4406. This issue may be re-examined at the hearing on the merits.

**IV.  
JURISDICTION**

The jurisdiction of the Commission is based upon the Organic Act of Guam, 4 G.C.A. § 4401 *et seq.*, and the Port Authority of Guam's Personnel Rules and Regulations.

**V.  
FINDINGS**

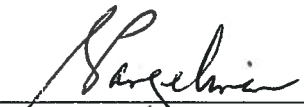
1. Based upon the documents and evidence submitted, Employee failed to show Management violated the 60-day Rule.

2. An Evidentiary Hearing with evidence and testimony regarding whether Management complied with the 60-Day rule under 4 GCA § 4406 is unnecessary.

VI.  
CONCLUSION

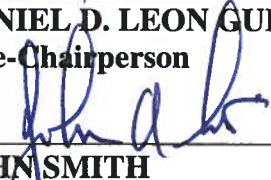
By a vote of 5-1, the Employee failed to prove by a preponderance of the evidence that his Motion to Dismiss is appropriate.


SO ADJUDGED THIS 14th DAY OF January <sup>14</sup> 201~~5~~, *nunc pro tunc* to  
October 16, 2014.


  
EDITH PANGELINAN  
Chairperson

*not present*  
DANIEL D. LEON GUERRERO  
Vice-Chairperson

  
PRISCILLA T. TUNCA  
Commissioner

  
JOHN SMITH  
Commissioner

  
LOURDES HONGYEE  
Commissioner

  
CATHERINE GAYLE  
Commissioner