



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

LUIS A. SANTOS,

Employee,

vs.

DEPARTMENT OF PUBLIC WORKS,

Management.

ADVERSE ACTION APPEAL
CASE NO. 14-AA23T

DECISION AND ORDER

On July 16, 2015, at 5:45 p.m. a motion by Management entitled Motion to Dismiss Appeal for Lack of Jurisdiction came before the Civil Service Commission for hearing at its office located at Suite 6A, Phase II, Sinajana Complex, 777 Route 4, Sinajana, GU 96910.

On June 4, 2015 the Employee was given personal notice of the hearing. The Employee, who represented himself *pro se*, did not appear. Also present for Management was Assistant Attorney General Monty R. May.

I.
ISSUE

The issue for decision by the Commission was whether under the law and the facts as alleged and proven by Management the Commission had jurisdiction to entertain the appeal by the Employee of his termination from the Department of Public Works.

ORIGINAL

1 **II.**
2 **HOLDING**

3 Having seen the evidence and heard the argument of counsel for Management, the
4 Commission finds that it lacks jurisdiction of the appeal of the Employee in this case.

5 **III.**
6 **FACTUAL FINDINGS**

7 After being informed on May 29, 2014 by the Dr. Aurelio Espinola, the Medical Review
8 Officer for the Government of Guam, that a urine sample submitted by the Employee on May 23,
9 2014, pursuant to the Drug-Free Workplace Policy, tested positive for the presence of
10 methamphetamine, on June 4, 2014 the Employee submitted his written resignation from the
11 Department, effective June 4, 2014. Without having requested Management to withdraw his
12 resignation, on September 19, 2014 the Employee filed his appeal with this Civil Service
13 Commission.

14 **IV.**
15 **JURISDICTION**

16 The jurisdiction of the Civil Service Commission is based upon the Organic Act of Guam
17 and 4 G.C.A. §§ 4401–4411. The Commission has jurisdiction to hear appeals from an
18 employee in the classified service if such right of appeal is established in the personnel rules
19 governing the employee. *Id.* § 4403(b). The Commission finds that an employee who submits a
20 written resignation to his appointing authority ceases to be an employee in the classified service
21 upon the effective date of the resignation letter, thereby depriving the Civil Service Commission
22 of jurisdiction of an appeal file thereafter. Resignation is a voluntary termination of employment
23 by an employee. DOA Pers. R. & Reg., Glossary, p. 159 (1996). We note there were no
24 allegations of constructive discharge in this case.
25

V.
CONCLUSION

By a vote of 7-0, the Commission finds that it does not have jurisdiction of Employee's appeal.

It is so ordered and adjudged this 17th day of September, 2015



LUIS R. BAZA
Chairman




MANUEL R. PINAUIN
Vice-Chairman



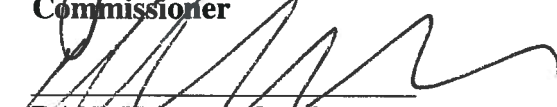
PRISCILLA T. TUNCAP
Commissioner



JOHN SMITH
Commissioner



LOURDES HONGYEE
Commissioner



DANIEL D. LEON GUERRERO
Commissioner



EDITH C. PANGELINAN
Commissioner