



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



21-
145



IN THE MATTER OF:

BENJAMIN B. PINEDA,

Employee,

vs.

PORT AUTHORITY OF GUAM,

Management.

**ADVERSE ACTION APPEAL
CASE NO.: 18-AA13T**

DECISION AND JUDGMENT

INTRODUCTION

This matter came before the Commission July 2, 2020, for a hearing on the merits. Present were Employee Benjamin B. Pineda with Lay Representative Daniel Del Priore; and General Manager Rory Respicio of the Port Authority of Guam (PAG) with his representative, Luis Baza.

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DECISION AND JUDGMENT

Benjamin B. Pineda vs. Port Authority of Guam
Adverse Action Appeal Case No.: 18-AA13T

1 **JURISDICTION**

2 The jurisdiction of the Commission is based upon the Organic Act of Guam, 4
3 GCA, §4401 and relevant portions of the Government of Guam Personnel Rules and
4 Regulations.

5 **FINDINGS OF FACT**

6 The Commission hereby makes the following findings of fact:

7 Employee was served a Final Notice of Adverse Action December 17, 2018,
8 on the grounds of unauthorized absences on October 23 and 25th, 2018, and violation
9 of PAG's drug free workplace Policy.

10 Employee was ordered to report for a drug test based on "reasonable suspicion."
11 Employee did report but was unable to provide a urine sample. After three (3) hours of
12 waiting, Employee was told to report to the hospital to be examined for shy bladder
13 condition. Employee refused to go to the hospital in violation of PAG's Drug Free
14 Workplace Policy.

15 **CONCLUSION**

16 The Commission voted 5 to 0 that Employee violated PAG's Drug Free
17 Workplace and that Management met its burden of proof by clear and convincing
18 evidence.

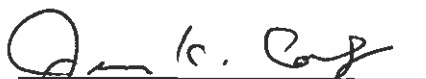
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1 The termination of Employee is confirmed.

2 The Commission did not reach the issue of unauthorized absences.

3 **IT IS SO ADJUDGED on this 23rd day of March, 2021.**



JUAN K. CALVO
Chairman



JOHN SMITH
Vice Chairman



PRISCILLA TUNCAP
Commissioner



EMILIA F. RICE
Commissioner



ANTHONY P. BENAVENTE
Commissioner



ROBERT C. TAITANO
Commissioner

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