



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



IN THE MATTER OF:

STEPHEN CHARFAUROS,

Employee,

vs.

GUAM FIRE DEPARTMENT,

Management.

**GRIEVANCE APPEAL
CASE NO.: 19-GRE10**

ORDER AFTER HEARING

This matter came on to be heard the 15th day of March, 2022, on Administrative Law Judge's Recommendations on Management's Motions. Commissioners present were Acting Chairman, Anthony P. Benavente, Commissioner Priscilla T. Tuncap, Commissioner John Smith and Commissioner Robert C. Taitano. Present for Management were Chief Daniel Stone with his counsel, AAG Donna Lawrence. Employee appeared with Lay Representative Robert Koss.

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1 Management moved to dismiss the Grievance on the grounds that Employee's
2 claim is not a Grievance under Chapter 12 of the Department of Administration's
3 (DOA) Personnel Rules and Regulations (PR&R) because the complaint of
4 Employee involves money. Employee seeks detail differential pay pursuant to
5 DOA, PR& R, 6.08 and 4.506 (H) which provides, " that employees serving on a
6 detail appointment in excess of 30 calendar days in a position having a higher pay
7 grade than his regular position shall receive a payment differential in accordance
8 with Rule 6.008." The Administrative Law Judge (ALJ) found that Employee's
9 claim relates to a violation of a rule, and is therefore properly considered as
10 grievance under 12.100 *supra*.

11 Management also moves to dismiss on the grounds that the claim is untimely
12 because he claims back pay from January 13, 2013 to August 6, 2017. ALJ found
13 that the alleged wrong doing is continuous, i.e. each pay check was a new failure to
14 properly compensate as required by regulation.

15 Finally Management argues that Employee's claim is moot because Employee
16 is not entitled to the relief he is requesting. ALJ found that the merits of Employee's
17 claim is for the Commission to decide.

18 After hearing arguments from the parties, and reviewing the record, the
19 Commission deliberated on the Motions. Acting Chairman Benavente expressed his

1 opinion that failure to pay the differential in a detail assignment was a complaint
2 constituting a "grievance" under DOA Rule 12.100, and not excluded under 12.300.

3 The other Commissioners disagreed voting 3 to 1 in support of Management
4 (Acting Chairman Benavente dissenting). Lacking an affirmative vote of four (4),
5 Management's motions failed and the case will go to a merit hearing.

6 The Commissioners did not deliberate, nor vote on Management's other two
7 (2) motions.

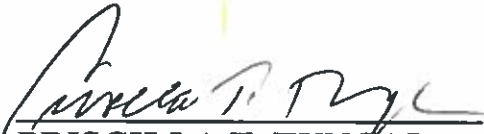
8 **SO ORDERED THIS 14th day of July, 2022.**

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JUAN K. CALVO
Chairman

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ANTHONY P. BENAVENTE
Vice Chairman

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PRISCILLA T. TUNCAP
Commissioner

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JOHN SMITH
Commissioner

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14 **ABSENT**

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16 **ROBERT C. TAITANO**
Commissioner

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16 **FRANCISCO T. GUERRERO**
Commissioner