BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

Spr[illegible]njamin J.F. Cruz

Time 3:18 Received by [illegible] 34477 GL# 34-17-558

IN THE MATTER OF: **GRIEVANCE APPEAL**
CASE NO. 16-GRE08

ARIEL C. EVAROLA,

Employee,

vs.

DEPARTMENT OF PUBLIC WORKS,

Management.

DECISION AND JUDGMENT

Office of the People
Senator Régine Biscoe Lee
Legislative Secretary
Date/Time: 5/24/17 @ 2:46
Initials: [illegible]

2017 MAY 24 PM 5:09

I.

INTRODUCTION

Management, Department of Public Works, by and through the Office of the Attorney General, Assistant Attorney General Debra B. Lefing, filed a Motion to Dismiss this grievance appeal on September 27, 2016, setting forth that the Civil Service Commission does not have jurisdiction to hear this grievance. The Employee did not file any response to this Motion.

This motion first came before the Commission at its regularly scheduled meeting on November 10, 2016, at 5:45 p.m., at its office located at Suite 6A, Phase II, Sinajana Complex, 777 Route 4, Sinajana, Guam 96910. Present at this Hearing for Management were Mr. Glenn Leon Guerrero, Director of the Department of Public Works, and Assistant Attorney General Debra B. Lefing. The Employee did not appear. This motion was then postponed before the Commission to November 22, 2016 for the Employee to appear and for the Commission to

decide on the Motion. Present at this Hearing were Mr. Glenn Leon Guerrero and Assistant Attorney General Debra B. Lefing. The Employee again did not appear.

II.

JURISDICTION

The jurisdiction of the Civil Service Commission is based upon the Organic Act of Guam, 4 G.C.A. §§ 4401–4411, and the Department of Administration Personnel Rules and Regulations.

III.

FINDINGS OF FACT

1. The Employee was employed by the Department of Public Works.
2. On May 11, 2015, the Employee was transferred from the Department of Public Works to the Department of Parks and Recreation.
3. Employee submitted a grievance appeal with the Commission on August 18, 2016 regarding this transfer.
4. The Employee did not comply with Steps 3, 4, and 5 of the Department of Administration Rules and Regulations for grievance procedures.
5. As such, this grievance appeal was not timely filed before the Commission.
6. Two status hearings were held after the filing of the grievance appeal.
7. On September 27, 2016, Management filed a Motion to Dismiss setting forth that because the required steps of the grievance process were not complied with, the Employee terminated his appeal under Department of Administration Personnel Rules and Regulations 12.406B.

IV.

CONCLUSIONS OF LAW

1. The Commission may dismiss an appeal for any circumstances that warrant dismissal. Civil Service Commission Rules of Procedure for Grievance Appeals G27(b).

2. Failure on the part of the employee to proceed to a higher step of the grievance procedures within the time period specified will terminate the grievance. Department of Administration Personnel Rules and Regulations 12.406B.

3. The Employee failed to comply with the time period specified for Steps 3, 4, and 5 of the Department of Administration's Grievance Procedures and as such, the Commission does not have jurisdiction to hear this instant grievance appeal as the grievance was terminated.

4. Employee's failure to appear without explanation at the hearing on the motion to dismiss is an independent basis for the Commission to dismiss his grievance.

V.

DECISION

By a vote of 5 to 0, the Commission voted to dismiss the Appeal of the Employee in this case with prejudice.

SO ADJUDGED THIS 17th DAY OF January 2017.

EDITH PANGELINAN
Chairperson

LOURDES HONGYEE
Vice-Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

CATHERINE GAYLE
Commissioner

MICHAEL G. TOPASNA
Commissioner