

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

In The Matter of)	CASE NO. OSAB 93-078
DIRECTOR, DEPARTMENT OF LABOR)	(OSHCO No. C4756)
AND INDUSTRIAL RELATIONS,)	(Report No. 120659560)
Complainant,)	
)	
vs.)	
)	
BCI GENERAL CONTRACTORS,)	
Respondent.)	

FILED
 AUG 24 10:25
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DECISION AND ORDER

This Occupational Safety and Health case is on appeal by BCI General Contractors (Respondent) from a citation issued by the Director of Labor and Industrial Relations, Division of Occupational Safety and Health (Complainant).

Complainant filed a motion for sanctions on August 3, 1994.

For the reasons stated below, we grant Complainant's motion for sanctions and dismiss this appeal.

FINDINGS OF FACT

1. On October 25, 1993, Respondent filed a notice of contest to appeal a citation issued against it by Complainant.
2. On July 7, 1994, the Board issued an order compelling Respondent to answer Complainant's First Request for Answer to Interrogatories no later than August 1, 1994.
3. Respondent failed to comply with the Board's order.



4. On June 17, 1994, Respondent's attorney withdrew as its counsel.

5. On June 27, 1994, in response to the Board's inquiry as to whether Respondent intends to proceed with its appeal, Respondent's former attorney informed the Board that it would advise Respondent to communicate its intentions directly to the Board.

6. On July 12, 1994, Respondent's former attorney advised the Board that he has been unable to contact his former client.

7. On August 3, 1994, Complainant filed a motion for sanctions for Respondent's failure to comply with the Board's order. A hearing on the motion was held on August 18, 1994. Respondent did not respond to or appear for the motion.

8. As of August 18, 1994, the Board has received no communication from Respondent regarding its appeal.

9. Complainant has advised the Board that its attempts to contact Respondent have also failed. Respondent has left no forwarding address and letters addressed to Respondent from Complainant at its last known address were returned to sender.

10. Respondent has failed to prosecute its appeal.

CONCLUSIONS OF LAW

We conclude that Respondent's notice of contest shall be dismissed for its failure to comply with the Board's July 7, 1994 order and its failure to prosecute the appeal.

ORDER

Respondent's notice of contest is hereby dismissed, in accordance with the foregoing findings of fact and conclusions of law.

Dated: Honolulu, Hawaii, AUG 24 1994.

Excused

FRANK YAP, JR., Chairman

Carol K. Yamamoto

CAROL K. YAMAMOTO, Member

Charles T. Akama

CHARLES T. AKAMA, Member

I do hereby certify that the foregoing is a full, true and correct copy of the original on file in this office.

[Signature]