

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

In the Matter of	)	
PHILIP A. MARANG,	)	CASE NO. OSAB 95-008
Complainant,	)	
	)	
vs.	)	
	)	
RICK'S ROOFING,	)	
Respondent	)	
	)	
and	)	
	)	
DIRECTOR, DEPARTMENT OF LABOR	)	
AND INDUSTRIAL RELATIONS,	)	
Appellee.	)	

FILED  
 LR AFFAIRS BOARD  
 STATE OF HAWAII  
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DECISION AND ORDER

This Occupational Safety and Health case is before the Board on appeal by Complainant, PHILIP A. MARANG, from the decision of the Administrator of Labor and Industrial Relations, ("Administrator"), dated December 30, 1994, wherein the Administrator dismissed Complainant's complaint for lack of sufficient evidence to support a charge of discrimination.

Complainant appealed on January 19, 1995. Trial in this matter was set for 10:30 a.m. on February 28, 1996, at the Labor Appeals Board. Claimant failed to appear for his trial. The issue before this Board is whether claimant's appeal should be dismissed for lack of prosecution.

FINDINGS OF FACT

1. Complainant last provided the Board with his mailing address as P.O. Box 1094, Haleiwa, Hawaii, 96712, and since then, has not notified the Board of a change therein.



2. At the March 30, 1995 pretrial conference in which Complainant participated, the Board set the following dates for discovery and trial:

Unnamed Witness Notification:	November 15, 1995
Live Witness Identification:	January 10, 1996
Discovery Cut-Off:	January 31, 1996
Settlement Conference:	February 1, 1996 at 11:15 a.m.
Trial:	February 28, 1996 at 10:30 a.m.

3. A Pretrial Order documenting the above-noted deadlines and dates was filed by the Board on April 3, 1995, and sent to the parties.

4. Respondent's position statement, which was filed with the Board on February 22, 1996, advised the Board that he would not be present at the February 28, 1996 trial.

5. The Board has not received any communication from Complainant as to whether or not he planned to be present for trial. Complainant did not attend the trial set for 10:30 a.m. on February 28, 1996. The Board waited until 10:44 a.m. for Complainant to appear.

6. Complainant has failed to prosecute his appeal.

#### CONCLUSIONS OF LAW

Based on the foregoing findings of fact, we conclude that Claimant's appeal shall be dismissed for lack of prosecution, pursuant to Section 12-47-33 of the Labor and Industrial Relations Appeals Board Rules of Practice and Procedure ("LAB rules").

#### ORDER

Claimant's appeal of the Administrator's December 30, 1994 decision is hereby dismissed, in accordance with the foregoing


findings of fact, conclusions of law, the LAB rules, and Chapter 386 of the Hawaii Revised Statutes.

MAR 12 1996

Dated: Honolulu, Hawaii, \_\_\_\_\_.

  
FRANK YAP, JR., Chairman

  
CAROL K. YAMAMOTO, Member

  
CHARLES T. AKAMA, Member

NOTICE TO EMPLOYER:


You are required to post a copy of this Decision and Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted. Further, you are required to furnish a copy of this Decision and Order to a duly recognized representative of the employees.

Philip A. Marang  
Complainant  
Pro Se

Rick's Roofing  
Respondent  
Pro Se

Department of Labor & Industrial Relations  
Appellee  
Gerard Lam

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

  
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