

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

In the Matter of	)	CASE NO. OSAB 96-020
CALVERT A. WILLIAMSON,	)	
Complainant,	)	
	)	
vs.	)	
	)	
REYNOLDS ALUMINUM RECYCLING CO.,	)	
Respondent,	)	
	)	
and	)	
	)	
DIRECTOR, DEPARTMENT OF LABOR	)	
AND INDUSTRIAL RELATIONS.	)	

---

FILED  
 JUL 31 1996  
 8:40

DECISION AND ORDER

This occupational safety and health case is before the Board on a written notice of contest filed April 8, 1996 by CALVERT A. WILLIAMSON (Complainant) from a decision of the DIRECTOR OF LABOR AND INDUSTRIAL RELATIONS dated March 27, 1996, dismissing his complaint filed pursuant to Hawaii Revised Statutes (HRS) §396-8(e).

The sole issue to be determined is whether REYNOLDS ALUMINUM RECYCLING CO. (Respondent) discriminated against Complainant in violation of HRS §396-8(e).

We affirm the Director's dismissal of the complaint.

FINDINGS OF FACT

1. On October 19, 1995, Complainant, who was an employee of Respondent, filed with the Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH), an oral complaint alleging that in safety



meetings, Respondent discouraged employees from filing workers' compensation claims.

2. On or about November 20, 1995, Complainant was terminated by Respondent. Respondent's reasons for terminating Complainant's employment included insubordination and inability to work well with co-workers.

3. Complainant filed a complaint with HIOSH, alleging that his termination was unlawful as it was violative of HRS §396-8(e),<sup>1</sup> because he was terminated for filing the October 19, 1995 oral complaint with HIOSH.

4. On March 27, 1996, HIOSH dismissed Complainant's HRS §396-8(e) complaint.<sup>2</sup>

5. At the hearing before the Board on May 27, 1997, Complainant reiterated that his October 19, 1995 oral complaint was limited to the issue of whether Respondent had dissuaded employees from filing workers' compensation claims.

6. The subject matter of Complainant's October 19, 1995 oral complaint does not pertain to any of the enumerated protected activities identified in HRS §396-8(e) and is, therefore, outside the scope of HRS Chapter 396.

---

<sup>1</sup>HRS Chapter 396 is known as the Hawaii Occupational Safety and Health Law. HRS §396-8(e) prohibits, among other things, the discharge of an employee for exercising any rights granted the employee under HRS Chapter 396.

<sup>2</sup>HIOSH determined that Complainant had been terminated for cause.

CONCLUSIONS OF LAW

Because Complainant's October 19, 1995 oral complaint did not allege a violation of any statutory rights granted by HRS Chapter 396, it is outside the scope of said Chapter. Thus, there is no justiciable issue before the Board. Accordingly, Complainant's complaint filed pursuant to HRS §396-8(e), alleging unlawful termination, is dismissed.

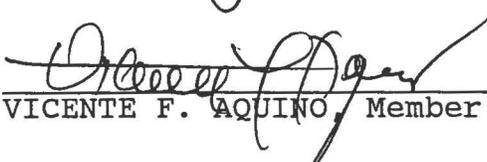
ORDER

The Director's decision dated March 27, 1996 is hereby affirmed in accordance with the foregoing.

Dated: Honolulu, Hawaii, JUL 31 1997.

  
FRANK YAP, JR., Chairman

  
CAROL K. YAMAMOTO, Member

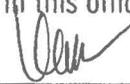
  
VICENTE F. AQUINO, Member

Calvert A. Williamson  
Complainant

Leighton Oshima/Ben Majoe  
for Respondent

Herbert Lau  
for the Director, Department of  
Labor and Industrial Relations

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

  
\_\_\_\_\_

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.