

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.:	CU-03-107
	)		CE-03-247
PATSY M. TANIMURA,	)		
	)	ORDER NO.	1164
Complainant,	)		
	)	ORDER GRANTING RESPONDENT	
and	)	HGEA'S MOTION FOR PARTICU-	
	)	LARIZATION AND GRANTING	
HAWAII GOVERNMENT EMPLOYEES	)	AND DENYING, IN PART,	
ASSOCIATION, AFSCME, LOCAL 152,	)	RESPONDENT DEPARTMENT OF	
AFL-CIO and DEPARTMENT OF	)	PERSONNEL'S MOTION FOR	
PERSONNEL, City and County of	)	PARTICULARIZATION	
Honolulu,	)		
	)		
Respondents.	)		
	)		

ORDER GRANTING RESPONDENT HGEA'S MOTION FOR PARTICULARIZATION, AND GRANTING AND DENYING, IN PART, RESPONDENT DEPARTMENT OF PERSONNEL'S MOTION FOR PARTICULARIZATION

On March 2, 1995, Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA), by and through its attorney, filed a Motion for Particularization with the Hawaii Labor Relations Board (Board). Respondent HGEA contends that Complainant PATSY M. TANIMURA (TANIMURA) failed to specify the subsections of Section 89-13, Hawaii Revised Statutes (HRS), which were allegedly violated by the HGEA. Therefore, the HGEA contends that it cannot reasonably be required to frame an answer without particularization of the complaint.

Thereafter, on March 3, 1995, Respondent DEPARTMENT OF PERSONNEL, City and County of Honolulu (CITY), by and through its attorney, filed a Motion for Particularization of the Complaint. The CITY also contends that Complainant failed to specify which subsections of Section 89-13, HRS, the CITY had allegedly violated.

In addition, the CITY contends that the Complainant failed to provide a complete statement of the facts supporting the complaint. Thus, the CITY contends that the complaint is "so vague and ambiguous" that it cannot reasonably be required to frame an answer without more particularization.

Upon reviewing the complaint, the Board finds that the complaint does not specify the statutory sections which TANIMURA alleges was violated by the respective Respondents. Accordingly, the Board hereby orders Complainant to file a particularization of her allegations with the Board which specifies the provisions of Section 89-13, HRS, she alleges was violated by each Respondent.

The Board hereby directs Complainant to file with the Board the original and five (5) copies of the requested particularization, with proof of service upon Respondents no later than 4:30 p.m. of the fifth working day after service of this order. If Complainant fails to file and serve the particularization in a timely manner, the Board may dismiss the subject prohibited practice complaint.

Respondents are directed to file with the Board the original and five (5) copies of their respective answers, with proof of service upon Complainant, no later than 4:30 p.m. of the fifth working day after service of Complainant's particularization. The failure of any Respondent to file an answer in a timely manner may constitute an admission of the material facts alleged in the complaint and a waiver of a hearing.


As to the CITY's further contention that the complaint does not contain a complete statement of facts, the Board finds

that Complainant sufficiently set forth her allegations in her complaint with the attached documentation. It is clear to the Board upon reviewing the complaint and attachments that Complainant alleges that the CITY erroneously deducted \$1,036.69 from her salary and diverted those funds to the HGEA as service fees when TANIMURA was actually excluded from collective bargaining because she is a confidential employee. According to her complaint, TANIMURA contends that the CITY mistakenly informed her that her Secretary II position was included in the bargaining unit and the error was discovered prior to the impending strike. TANIMURA further alleges that she was told by the CITY that it would take care of the matter and corresponded with HGEA on her behalf. The HGEA, by letter dated January 11, 1995, refused to refund the monies in dispute because the error was not the fault of the union.

Based upon the foregoing, the Board finds that the allegations of the complaint, as supported by the attached documentation, are reasonably clear and that Respondent CITY should be able to fashion a response thereto. Thus, the Board hereby denies the CITY's motion for particularization as it requests a more complete statement of facts to be provided by Complainant.

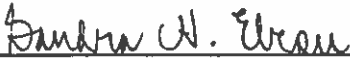
DATED: Honolulu, Hawaii, March 10, 1995.

HAWAII LABOR RELATIONS BOARD

  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

PATSY M. TANIMURA vs. HAWAII GOVERNMENT EMPLOYEES ASSOCIATION,  
AFSCME, LOCAL 152, AFL-CIO and DEPARTMENT OF PERSONNEL, City and  
County of Honolulu; CASE NOS.: CU-03-107 and CE-03-247  
ORDER NO. 1164  
ORDER GRANTING RESPONDENT HGEA'S MOTION FOR PARTICULARIZATION AND  
GRANTING AND DENYING, IN PART, RESPONDENT DEPARTMENT OF  
PERSONNEL'S MOTION FOR PARTICULARIZATION

  
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SANDRA H. EBESU, Board Member

Copies sent to:

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