

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.:	CU-01-133
	)		CE-01-360
PAUL S. SAPLA,	)		
	)	ORDER NO.	1533
Complainant,	)		
	)	ORDER GRANTING UNITED	
and	)	PUBLIC WORKERS' MOTION	
	)	TO DISMISS PROHIBITED	
UNITED PUBLIC WORKERS, AFSCME,	)	PRACTICE COMPLAINT;	
LOCAL 646, AFL-CIO and HUGH Y.	)	NOTICE OF HEARING ON	
ONO, Department of Transporta-	)	RESPONDENT ONO'S MOTION	
tion, Highways Division, State	)	TO DISMISS AND/OR FOR	
of Hawaii,	)	SUMMARY JUDGMENT	
	)		
Respondents.	)		

ORDER GRANTING UNITED PUBLIC WORKERS' MOTION TO DISMISS  
PROHIBITED PRACTICE COMPLAINT; NOTICE OF HEARING ON  
RESPONDENT ONO'S MOTION TO DISMISS AND/OR FOR SUMMARY JUDGMENT

On August 18, 1997, Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union) filed a motion to dismiss the instant complaint with the Hawaii Labor Relations Board (Board). The UPW contends that the instant complaint fails to state a claim for relief. The UPW asserts that Complainant PAUL S. SAPLA (SAPLA) filed the instant complaint against HUGH Y. ONO, Department of Transportation, Highways Division, State of Hawaii (ONO or Employer) and the UPW alleging violations of Section 16 of the Unit 01 collective bargaining agreement (contract). The UPW contends that the only reference to the UPW in the complaint concerns a UPW business agent, Merlene M. Akau, who informed SAPLA that another person was selected for the position of Bridge Maintenance Supervisor I. Thus, the UPW claims that the complaint fails to state a claim for relief against the UPW.

At the hearing held on the UPW's motion to dismiss the complaint on September 16, 1997, the UPW, by and through its attorney, argued that it was undisputed that SAPLA was a Bridge Maintenance Worker II, included in Unit 01, who sought a promotion to a Bridge Maintenance Supervisor I, which is included in Unit 02. The UPW also stated that a grievance was filed but that a promotion from Unit 01 to Unit 02 was nonarbitrable. Further, the UPW argued that the remedies sought in the complaint are not addressed to the Union. Thus, the UPW asserts that the complaint failed to state a claim for relief against the Union.

At the hearing, SAPLA appeared pro se and stated that he belonged to the UPW and the UPW should have represented him in challenging the instant promotion. SAPLA contended that the selection was wrong and argued that he was more qualified than the selectee.

After reviewing the record and considering the arguments presented, the Board finds that the complaint fails to state a claim for relief against the UPW. The complaint contains allegations of Unit 01 contract violations by the Employer, contesting the selection process used by the Employer. The only reference to the Union in the complaint is that the Employer informed the Union through its business agent that another employee was selected for the position. It "appears beyond a doubt that [complainant] can prove no set of facts in support of his claim which would entitle him to relief" against the UPW under Section 16 of the Unit 01 contract. Bishop Est. Trust v. Castle & Cooke,

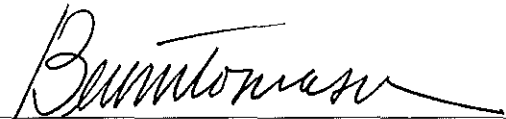
45 Haw. 409, 414 (1962), quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957). Accordingly, the Board concludes that the instant complaint fails to state a claim for relief against the Union and hereby dismisses the complaint against the UPW.

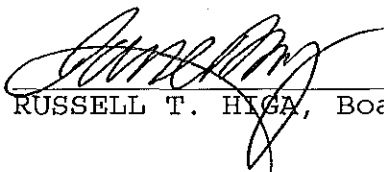
On September 18, 1997, Respondent ONO, by and through his counsel, filed a motion to dismiss the instant complaint or in the alternative, motion for summary judgment with the Board. Respondent ONO contends that the complaint should be dismissed because he is not the real party in interest and that Complainant SAPLA fails to state a claim for contractual violation because the Unit 01 contract is not applicable here.

YOU ARE HEREBY NOTIFIED that the Board will conduct a hearing on ONO's motion to dismiss and/or for summary judgment on October 21, 1997 at 9:30 a.m. in the Board's hearings room, 830 Punchbowl Street, Room 434, Honolulu, Hawaii.

DATED: Honolulu, Hawaii, October 7, 1997,

HAWAII LABOR RELATIONS BOARD

  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

  
CHESTER C. KUNITAKE, Board Member

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