

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. CU-10-155
	)	
STEVEN McGUINE,	)	ORDER NO.1718
	)	
Complainant,	)	ORDER GRANTING, IN PART,
	)	AND DENYING, IN PART,
and	)	RESPONDENT'S MOTION FOR
	)	PARTICULARIZATION OF THE
UNITED PUBLIC WORKERS, AFSCME,	)	COMPLAINT
LOCAL 646, AFL-CIO,	)	
	)	
Respondent.	)	
_____	)	

ORDER GRANTING, IN PART, AND DENYING, IN PART,  
RESPONDENT'S MOTION FOR PARTICULARIZATION OF THE COMPLAINT

On April 29, 1999, Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union), by and through its counsel, filed a motion for particularization of the complaint with the Hawaii Labor Relations Board (Board). Respondent's counsel states in an affidavit attached to the motion that the complaint is vague and unclear and contends that the UPW is unable to formulate a specific response to the complaint. Respondent's counsel states that the complaint appears to suggest a violation of the collective bargaining agreement by citing a violation of § 89-13(5), Hawaii Revised Statutes (HRS), but does not specify which provisions of the collective bargaining agreement were allegedly violated by Respondent. In addition, Respondent contends that the complaint does not indicate how, when, where, and in what way the UPW allegedly violated § 89-13, HRS.

In the instant complaint, Complainant alleges that he was suspended for 20 days and dismissed from O.C.C.C. effective November 2, 1998. The UPW filed a grievance on his behalf and on February 5, 1999, Complainant received a notice from Gary Rodrigues that the Union decided not to submit his grievance to arbitration. Complainant cites violations of "§§ 89-13 and 89-13(5)."

After reviewing the complaint and Respondent's motion, the Board agrees with the Respondent that the complaint appears to allege violations of the collective bargaining agreement without specifying which contract provisions were violated. The Board finds that the complaint is vague in this respect and that Complainant should specify which contract provisions were allegedly violated in order to properly put the Union on notice.

With respect to Respondent's request that the Complainant specify how, when, where, and in what manner the UPW allegedly violated § 89-13, HRS, in reviewing the complaint it seems clear to the Board that Complainant alleges that the Union improperly refused to take his termination grievance to arbitration thereby violating its duty of fair representation. The Board finds that Complainant's allegations are not vague in this respect.

The Board hereby directs the Complainant to file with this Board the original and five (5) copies of the requested particularization, with proof of service upon the Respondent, 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 shall dismiss the subject Prohibited Practice Complaint.

Respondent is directed to file with this Board the original and five (5) copies of the Answer, with proof of service upon Complainant, no later than 4:30 p.m. of the fifth working day after service of Complainant' Particularization. Failure by Respondent to file its answer in a timely manner may constitute an admission of the material facts alleged in the Complaint and Particularization and a waiver of a hearing.

DATED: Honolulu, Hawaii, May 7, 1999.

HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson



RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

Copies sent to:

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