

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CU-01-118
)	
MICHAEL L. LAST,)	ORDER NO. 1760
)	
Complainant,)	ORDER DENYING RESPONDENT'S
)	MOTION FOR ATTORNEY'S FEES
and)	
)	
UNITED PUBLIC WORKERS, AFSCME,)	
LOCAL 646, AFL-CIO,)	
)	
Respondent.)	

ORDER DENYING RESPONDENT'S MOTION FOR ATTORNEY'S FEES

By Order No. 1319, dated April 11, 1996, the Hawaii Labor Relations Board (Board) granted Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO's (UPW) motion to dismiss complaint. Thereafter, on April 19, 1996, the UPW filed a motion to award Respondent attorney's fees with the Board. The UPW contends that the instant complaint filed by Complainant MICHAEL L. LAST (LAST) was frivolous and without basis in fact or applicable law. The UPW contends that LAST brought the complaint against the UPW for an improper purpose and LAST's conduct foreclosed access to the Board for meritorious cases. The UPW further argues that LAST's conduct is contrary to the purpose of Chapter 89, Hawaii Revised Statutes (HRS) and thus, the UPW is entitled to an award of attorney's fees.

On April 29, 1996, LAST filed a motion to dismiss Respondent's motion with the Board. LAST contends, inter alia, that Respondent's memorandum contains allegations which are not

supported by the facts or are otherwise false; that Respondent is attempting to restrict Complainant from exercising his constitutional rights; and is attempting to restrict Complainant from lawfully seeking redress against Respondent.

On May 6, 1996, the UPW filed a supplemental submission in support of its motion with the Board. The UPW contends that LAST's actions before the Board are part of a series of actions intended to harass the UPW and its representatives.

On May 28, 1996, the Board held a hearing on UPW's motion to award Respondent attorney's fees by conference call. All parties were afforded a full and fair opportunity to present evidence and argument to the Board.

After considering the record and arguments presented, the Board finds that Respondent is not entitled to an award of attorney's fees in this case. The Board recognizes that it has the discretion to award attorney's fees where circumstances warrant in appropriate cases as part of its remedial powers. (Dennis Yamaguchi, 2 HPERB 656 (1981); Ariyoshi v. HPERB, 5 Haw. App. 533 (1985)). In this case, however, the Board does not find that an award of fees is appropriate.

Accordingly, the Board denies Respondent's motion for an award of attorney's fees.

DATED: Honolulu, Hawaii, September 8, 1999.

HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson

MICHAEL L. LAST and UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,
AFL-CIO
CASE NO. CU-01-118
ORDER NO. 1760
ORDER DENYING RESPONDENT'S MOTION FOR ATTORNEY'S FEES



RUSSELL T. HIGA, Board Member

Copies sent to:

Michael L. Last
Herbert R. Takahashi, Esq.
Joyce Najita, IRC