

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. CU-01-171
WARREN KISHIMOTO,	)	ORDER NO. 1908
Complainant,	)	ORDER DENYING RESPONDENT'S
and	)	MOTION FOR PARTICULARIZA-
UNITED PUBLIC WORKERS, AFSCME,	)	TION; NOTICE OF PREHEARING
LOCAL 646, AFL-CIO,	)	CONFERENCE AND HEARING ON
Respondent.	)	PROHIBITED PRACTICE COM-
	)	PLAINT

ORDER DENYING RESPONDENT'S MOTION FOR PARTICULARIZATION; NOTICE OF PREHEARING CONFERENCE AND HEARING ON PROHIBITED PRACTICE COMPLAINT

On August 2, 2000, Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW), by and through its counsel, filed a motion for particularization with the Hawaii Labor Relations Board (Board). The UPW contends that the allegations contained in the complaint filed by WARREN KISHIMOTO (KISHIMOTO), pro se, in Case No. CU-01-171 are so vague and indefinite that Respondent cannot reasonably be required to frame an answer thereto. Accordingly, the UPW requests that KISHIMOTO be required to identify: 1) the specific provisions of the collective bargaining agreement that he claims were violated; and 2) the specific provisions of Chapter 89, Hawaii Revised Statutes (HRS), that he maintains were violated.

After reviewing the complaint and the UPW's motion, the Board finds that the complaint is not so vague and indefinite as to require particularization.

In his complaint, KISHIMOTO alleges that the UPW agreed to a change in his job title, responsibilities and evaluation criteria without consulting, and notwithstanding the objections of the affected employees. KISHIMOTO further alleges that the UPW refused to grieve the changes. The Board finds that the complaint therefore alleges a violation of the UPW's duty of fair representation sufficient as to require the framing of an answer thereto.

The Board notes that the consequence of failing to particularize after being so ordered is the dismissal of the complaint, Hawaii Administrative Rules (HAR) § 12-42-45(b). Thus, the granting of the UPW's motion would result in the dismissal of KISHIMOTO's complaint if KISHIMOTO did not possess, or was unable to obtain, legal expertise sufficient to identify the requested specific statutory and contractual citation, effectively denying him access to this forum because of lack of counsel. The Board is unwilling to visit such potential consequences upon complainants proceeding pro se.

Respondent's motion for particularization is therefore denied.

YOU ARE HEREBY NOTIFIED that the Board, pursuant to HRS § 89-5(b)(4) and HAR § 12-42-47, will conduct a prehearing conference on the above-entitled prohibited practice complaint on August 30, 2000 at 9:00 a.m., in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The purpose of the prehearing conference is to arrive at a settlement or clarification of issues, to identify and exchange witness and exhibit lists, if any, and to the extent possible, reach an

agreement on facts, matters or procedures which will facilitate and expedite the hearing or adjudication of the issues presented. The parties shall file a Prehearing Statement which addresses the foregoing matters with the Board two days prior to the prehearing conference.

YOU ARE ALSO NOTIFIED that the Board will conduct a hearing, pursuant to HRS §§ 89-5(b)(4) and 89-14, and HAR §§ 12-42-49 and 12-42-8(g) on the instant complaint on September 11, 2000 at 9:00 a.m. in the above-mentioned hearings room. The purpose of the hearing is to receive evidence and arguments on whether Respondents committed prohibited practices as alleged by the Complainant. The hearing may continue from day to day until completed.

The parties shall submit to the Board four copies of all exhibits identified and offered into the record. Additional copies for opposing counsel shall also be provided.

All parties have the right to appear in person and to be represented by counsel or other representative.

Auxiliary aids and services are available upon request, call Mrs. Kato at 586-8610, (808) 586-8847 (TTY), or 1-888-569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodation.

DATED: Honolulu, Hawaii, August 4, 2000.

HAWAII LABOR RELATIONS BOARD

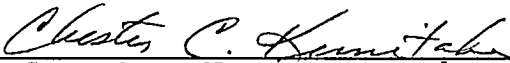
  
BRIAN K. NAKAMURA, Chairperson

WARREN KISHIMOTO and UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,  
AFL-CIO

CASE NO. CU-01-171

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PREHEARING CONFERENCE AND HEARING ON PROHIBITED PRACTICE  
COMPLAINT

  
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CHESTER C. KUNITAKE, Board Member

Copies sent to:

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Joyce Najita, IRC