

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. S-01-51
BENJAMIN J. CAYETANO, Governor, State)	ORDER NO. 1952
of Hawaii,)	ORDER DENYING UPW'S MOTION
Public Employer,)	TO CONTINUE HEARING
and)	
UNITED PUBLIC WORKERS AFSCME,)	
LOCAL 646, AFL-CIO,)	
Exclusive)	
Representative.)	

ORDER DENYING UPW'S MOTION TO CONTINUE HEARING

On November 6, 2000, Exclusive Representative UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed a motion to continue the hearings scheduled to begin on November 14, 2000 in view of a scheduling conflict of its attorney Herbert R. Takahashi, Esq. who is scheduled to begin a civil trial with the City and County of Honolulu (City) in Civil No. 98-2174-05 before Circuit Court Judge Virginia Crandall beginning the week of November 13, 2000. The motion does not identify the length of the requested continuance.

On November 8, 2000, Petitioner BENJAMIN J. CAYETANO, Governor, State of Hawaii (State), by and through its attorney, Deputy Attorney General Francis Keeno, objected to any request to continue the hearings on its petitions filed in Case Nos. S-01-51 and S-01-52 based on information from the City that its trial is expected to take 2-3 weeks. The State has already made arrangements for witnesses to fly to Honolulu and are relying on the hearing to begin on November 14, 2000.

Having considered the UPW's motion for continuance and the State's objections, we must deny the requested continuance.

In Order No. 1950 dated November 3, 2000, we indicated that among our reasons for initiating essential worker hearings was the criticality of the decisions to be made:

Among the most critical duties of the Board is that of identifying essential workers. This involves making a determination as to

whether an imminent or occurring strike would present an "imminent and present danger to the health and safety of the public and ... set[ting] requirements that must be complied with to remove any such danger," Ariyoshi, 2 HLRB 337, 340 (1979), including the designation of essential positions. HRS 89-12(c)(1)(a). Such decisions could impact life or death; or they may wrongfully deprive workers of any right to strike.

We further indicated that we would try not to permit "bureaucratic and legalistic red tape [to] delay the making of necessary decisions and the provision of necessary services." The UPW denies any attempt to delay this process. However in addition to the instant motion to continue, it has filed an appeal from the denial of its "Motion to Strike Notice of Prehearing Conference and Investigation," filed a Prohibited Practice Complaint in Case No. CE-01-454 based on the filing of essential worker petitions, and also filed 11 motions for particularization and extensions of time to answer the petitions.

All such filings are well within the UPW's rights and under ordinary circumstances each filing would be considered in the ordinary course of business. Under such ordinary circumstances, a continuance would be granted as a courtesy.

We are not, however, operating within the ordinary course of business. Imminent work stoppages by essential workers threaten to endanger the public health and safety. The timely and thorough consideration of each Employer's petition is the Board's preeminent concern and duty. Accordingly, an indefinite continuance is neither in the public's interest nor consonant with the Board's duties.

The UPW's Motion to Continue Hearing is therefore denied.

DATED: Honolulu, Hawaii, November 9, 2000.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member

Copies sent to:
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Joyce Najita, IRC

BENJAMIN J. CAYETANO
GOVERNOR



BRIAN K. NAKAMURA, CHAIRPERSON
CHESTER C. KUNITAKE, BOARD MEMBER
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November 9, 2000

ACKNOWLEDGMENT OF SERVICE

This will acknowledge receipt of the following document(s):

BENJAMIN J. CAYETANO & UPW

ORDER NO. 1952

HLRB Case No.(s) S-01-51

Sheila S. Tateishi

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Date