

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

RAUL PONCE,

Complainant,

and

PAUL LeMAHIEU, Superintendent, Department of Education, State of Hawaii,

Respondent.

CASE NO. CE-05-443

ORDER NO. 1957

ORDER GRANTING RESPONDENT
LEMAHIEU'S MOTION TO DISMISS
COMPLAINT, WITHOUT PREJUDICE

ORDER GRANTING RESPONDENT LEMAHIEU'S
MOTION TO DISMISS COMPLAINT, WITHOUT PREJUDICE

On January 13, 2000, Respondent, by and through his counsel, filed a Motion to Dismiss and/or for Summary Judgment with the Hawaii Labor Relations Board (Board). Respondent contends that the Board lacks jurisdiction over the instant complaint because it was untimely filed and further, that the Complainant failed to exhaust his contractual remedies. Alternatively, Respondent requests that the Board defer the matter until an arbitration decision on Complainant's termination has been rendered.

On October 23, 2000, the Board conducted a hearing on Respondent's Motion to Dismiss and/or for Summary Judgment. At the hearing, the parties were presented with an opportunity to present evidence and arguments to the Board.

At the hearing, Complainant, appearing pro se, represented that Respondent's actions complained of in this proceeding are also the subject of a contractual grievance. Respondent's counsel represented that settlement discussions had commenced and an arbitrator was in the process of being selected to hear the grievance. Complainant was advised that the failure to exhaust contractual remedies is grounds for a voluntary declination of jurisdiction by the Board resulting in a dismissal of the complaint without prejudice. Complainant did not contest such dismissal.

Accordingly, Respondent's Motion to Dismiss the Complaint is granted, without prejudice.

RAUL PONCE v. PAUL LEMAHIEU
CASE NO. CE-05-443
ORDER NO. 1957
ORDER GRANTING RESPONDENT LEMAHIEU'S MOTION TO DISMISS COMPLAINT,
WITHOUT PREJUDICE

DATED: Honolulu, Hawaii, November 17, 2000

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

Copies sent to:

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