

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of COUNTY OF MAUI, Petitioner, and STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS, Intervenor.	}	CASE NO. DR-12-83 ORDER NO. 2033 ORDER DISMISSING PETITION FOR DECLARATORY RULING
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ORDER DISMISSING PETITION FOR DECLARATORY RULING

On May 11, 2001, the COUNTY OF MAUI (County) filed a Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). The County alleged that the STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS (SHOPO) is attempting to arbitrate the termination of a grievant in the arbitration of the grievant's three pending suspension grievances. The County seeks a declaratory order that SHOPO's alleged attempt to arbitrate the grievant's termination violates Hawaii Revised Statutes (HRS) §§ 89-9, 89-11(a), and 89-13(b)(5).

On May 29, 2001, SHOPO filed a Petition for Intervention pursuant to the Board's Notice of Filing of Petition for Declaratory Ruling; Notice of Deadline for Filing Petitions for Intervention, dated May 18, 2001. In Order No. 2013, dated June 5, 2001, the Board granted SHOPO's Petition for Intervention in the proceedings.

On June 20, 2001, the Board conducted a prehearing conference by conference call. Both parties were represented and had full opportunity to present their respective positions to the Board. Based upon a review of the petition and the record in this case, as well as the stipulation of the parties during the prehearing conference, the Board makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. The County is the public employer, within the meaning of HRS § 89-2, of its employees, including police officers.

2. SHOPO is an employee organization and the certified exclusive representative, within the meaning of HRS § 89-2, of Unit 12 consisting of police officers.
3. SHOPO and the County are parties to a collective bargaining agreement for Unit 12, which includes a grievance procedure culminating in arbitration.
4. SHOPO filed grievances on behalf of Guy Souza (Souza) to contest three suspensions which are pending arbitration.
5. During the prehearing conference, SHOPO stipulated that it did not request to proceed to arbitrate Souza's termination in the absence of filing at the prior steps of the grievance procedure.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the instant petition pursuant to HRS §§ 89-5(b)(5) and 91-8.
2. Hawaii Administrative Rules (HAR) § 12-42-9(f) provides:

The board may, for good cause, refuse to issue a declaratory order. Without limiting the generality of the foregoing, the board may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts or facts which can be reasonably be expected to exist in the near future.
 - (2) The petitioner's interest is not of a type which would give the petitioner standing to maintain an action if such petitioner were to seek judicial relief.
 - (3) The issuance of a declaratory order may adversely affect the interests of the board or any of its officers or employees in a litigation which is pending or may reasonably be expected to arise.
 - (4) The matter is not within the jurisdiction of the board.
3. Based upon SHOPO's stipulation that it did not request to proceed to arbitrate Souza's termination in the absence of filing a grievance at the prior steps of the grievance procedure, the Board concludes that the issues raised by the petition are not ripe. The Board therefore declines to issue a declaratory ruling in this case because the issues presented in the petition are purely speculative and hypothetical. The Board also refrains from issuing an opinion as to the


arbitrability of evidentiary or remedial issues in the three pending suspension grievances.

ORDER

Based on the foregoing, the Board declines to issue a ruling in this case and dismisses the instant petition.

DATED: Honolulu, Hawaii, September 21, 2001.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

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