

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)
RICHARD KEALOHA CONDON,)
Complainant,)
and)
TED SAKAI, Director, Department of Public)
Safety, State of Hawaii and DAVIS YOGI,)
Director, Department of Human Resources and)
Development, State of Hawaii,)
Respondents.)

CASE NO. CE-10-489
ORDER NO. 2057
ORDER CONSOLIDATING CASES
FOR DISPOSITION; AND NOTICE OF
HEARING ON UPW'S AND HGEA'S
MOTIONS TO DISMISS

In the Matter of)
RICHARD K. CONDON,)
Complainant,)
and)
DIANA BERNDT, United Public Workers,)
AFSCME, Local 646, AFL-CIO and UNITED)
PUBLIC WORKERS, AFSCME, LOCAL 646,)
AFL-CIO,)
Respondents.)

CASE NO. CU-10-191

In the Matter of)
RICHARD K. CONDON,)
Complainant.)
and)
HAWAII GOVERNMENT EMPLOYEES)
ASSOCIATION, AFSCME, LOCAL 152.)
AFL-CIO,)
Respondent.)

CASE NO. CU-03-192

ORDER CONSOLIDATING CASES FOR DISPOSITION;
AND NOTICE OF HEARING ON UPW'S AND HGEA'S MOTIONS TO DISMISS

On December 7, 2001, Complainant RICHARD KEALOHA CONDON (CONDON) filed a Prohibited Practice Complaint against TED SAKAI, Director of Public Safety, State of Hawaii (PSD) and DAVIS YOGI, Director, Department of Human Resources Development (DHRD) (collectively State) in Case No. CE-10-489. CONDON alleges that the State failed to respond to a grievance he filed contesting the denial of a Social Service Assistant V position at Laumaka, Oahu Community Correctional Center. CONDON contends that PSD violated § 15 of the Unit 10 collective bargaining agreement (contract) by refusing to process his grievance. In addition, CONDON contends that DHRD is violating § 15 of the Unit 10 contract by delegating the hearing of Step 2 appeals to PSD.

On January 11, 2002, the State filed a Motion to Dismiss or in the Alternative for the Grant of Summary Judgment with the Board. The State contended that the Complainant failed to exhaust his contractual remedies; the complaint is untimely; Complainant failed to join the union; and Complainant lacks standing. The Board conducted the hearing on the State's motion on January 18, 2002.

Thereafter, on January 18, 2002, CONDON filed a complaint against DIANN BERNDT and the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (collectively UPW) with the Board in Case No. CU-10-191. CONDON alleges that the UPW refused to respond to his numerous requests for assistance and therefore violated Hawaii Revised Statutes (HRS) §§ 89-13(b)(2), (3), (4), and (5). The UPW filed an answer and Motion to Dismiss with the Board on February 1, 2002. The UPW contends that the Board lacks jurisdiction over the complaint because CONDON's complaint is untimely.

Also on January 18, 2002, CONDON filed a complaint against the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) in Case No. CU-03-192. CONDON alleges that the HGEA refused to represent him claiming that the UPW is responsible and contends that the HGEA violated HRS §§ 89-13(b)(2), (3), (4), and (5). The HGEA filed an answer and motion to dismiss the complaint on January 25, 2002 on the basis of timeliness.

In view of the filing of the complaints against the UPW and the HGEA, the Board reserves its ruling on the State's Motion to Dismiss or in the Alternative for the Grant of Summary Judgment filed on January 11, 2002 with the Board. In addition, in reviewing the complaints, the Board finds that the issues presented are interrelated and contemporaneous consideration of these proceedings is conducive to the proper dispatch of its business and will not unduly delay the proceedings. Accordingly, pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(13), the Board hereby consolidates the cases for disposition.

NOTICE IS HEREBY GIVEN that pursuant to HRS §§ 89-5(b)(4) and (5) and 89-14 and HAR § 12-42-8(g)(3), the Board will conduct a hearing on the UPW and HGEA's respective motions to dismiss the complaints on February 21, 2002 at 10:00 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.

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. Ebata at (808) 586-8610, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY neighbor islands) for assistance. A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodation.

DATED: Honolulu, Hawaii, February 4, 2002

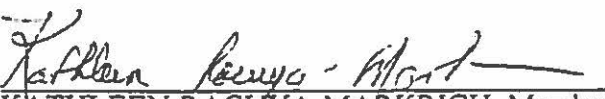
HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chair



CHESTER C. KUNITAKE, Member



KATHLEEN RACIYA-MARKRICH, Member

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