

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CU-10-212
GORDON K. LESLIE,)	ORDER NO. 2166
Complainant,)	ORDER DENYING COMPLAINANT'S
and)	MOTION TO VACATE, SET ASIDE,
LAURIE SANTIAGO, Business Agent, United)	CORRECT JUDGMENT, MODIFY OR
Public Workers, AFSCME, Local 646,)	RECONSIDER ORDER NO. 2152
AFL-CIO and UNITED PUBLIC WORKERS,)	
AFSCME, LOCAL 646, AFL-CIO,)	
Respondents.)	

ORDER DENYING COMPLAINANT'S
MOTION TO VACATE, SET ASIDE, CORRECT
JUDGMENT. MODIFY OR RECONSIDER ORDER NO. 2152

On January 29, 2003, the Hawaii Labor Relations Board (Board) issued Order No. 2152, Order Granting Respondent UPW's Motion to Dismiss for lack of jurisdiction because the complaint was untimely filed. Thereafter, on February 11, 2003, Complainant GORDON K. LESLIE (LESLIE), pro se, filed a Motion to Vacate, Set Aside, Correct Judgment, Modify or Reconsider Order No. 2152 declaring that he "inadvertently, unknowingly nor understandingly responded with 'NO'" to the Board's question whether the "incident on September 27, 2003 (sic) is in regards to UPW's denial to file a grievance on June 14, 2002." LESLIE withdrew his response declaring that "the incident regarding September 27, 2003 (sic) is directly related to UPW's denial to file grievance on June 12, 2003 (sic)." LESLIE contends that the denials to file a grievance on September 27, 2002 and October 8, 2002 renewed the Respondents LAURIE SANTIAGO and the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO's (collectively UPW) denial to file a grievance on his behalf and that the UPW's renewed position began a new jurisdictional time limit to file a complaint.

On February 11, 2003, Respondent UPW filed a memorandum in opposition to LESLIE's motion contending that the motion is untimely and even assuming arguendo, the September 27, 2002 communication related to the June 12, 2002 denial to file a grievance, it would make no difference on the Board's lack of jurisdiction over the complaint.

Upon consideration of the record and the arguments presented, the Board agrees with the UPW that the Board's decision in Order No. 2152 does not turn on whether LESLIE's representation at the hearing on January 24, 2003 or in his declaration, dated February 10, 2003 is true. The Board's 90-day statute of limitations in this case began to run when LESLIE knew or should have known that his rights were violated. Based on the Board's findings in Order No. 2152, LESLIE knew or should have known that his rights were violated when the UPW refused to file a grievance on his behalf on May 31, 2002, June 3, 2002 or at the latest June 12, 2002. Given the UPW's unequivocal refusal to file a grievance on his behalf on the schedule posting matter, it would be unreasonable to view LESLIE's later requests in September and October of 2002 as creating new causes of action against the UPW for refusing to file a grievance or begin the running of new jurisdictional time limits to file a complaint. Accordingly, the Board concludes that Complainant's motion lacks merit.

ORDER

The Board hereby denies Complainant's Motion to Vacate, Set Aside, Correct Judgment, Modify or Reconsider Order No. 2152.

DATED: Honolulu, Hawaii, February 13, 2003.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

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