

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)) UNITED PUBLIC WORKERS, AFSCME,) LOCAL 646, AFL-CIO,)) Complainant,)) and)) JOHN F. PEYTON, JR., Director, Department) of Public Safety, State of Hawaii; KATHLEEN) WATANABE, Director, Department of Human) Resources Development, State of Hawaii; and) LINDA LINGLE, Governor, State of Hawaii,)) Respondents.)	CASE NOS.: CE-01-572a CE-10-572b ORDER NO. 2296 ORDER GRANTING COMPLAIN- ANT'S WITHDRAWAL OF PROHIB- ITED PRACTICE COMPLAINT, WITHOUT PREJUDICE
---	---

ORDER GRANTING COMPLAINANT'S WITHDRAWAL
OF PROHIBITED PRACTICE COMPLAINT, WITHOUT PREJUDICE

On November 18, 2004, Complainant, by and through its counsel, filed a Notice of Withdrawal of Complaint Without Prejudice with the Hawaii Labor Relations Board (Board). Complainant requested the withdrawal of the instant prohibited practice complaint filed on September 15, 2004, without prejudice, because of subsequent developments after the filing of the complaint, the consolidation of twenty seven grievances by order of the circuit court and a decision by the union to proceed via the grievance-arbitration process regarding the consolidated matters by a mutually agreed to arbitrator.

Thereafter, on November 23, 2004, Respondents filed a Notice of Opposition to Complainant's Notice of Withdrawal of Complaint Without Prejudice with the Board arguing, inter alia, that the Board previously indicated its oral inclination on a pending motion to dismiss the complaint by Respondents and Complainant seeks to avoid an adverse Board ruling to be used at arbitration. Complainant then filed a Motion to Permit Withdrawal of Complaint Without Prejudice by Complainant on November 24, 2004 with a supporting memorandum filed on November 26, 2004. Respondents filed an opposing memorandum on November 29, 2004. On December 9, 2004, the UPW filed a supplemental filing in support of its withdrawal with the Board.

The Board conducted a hearing on December 14, 2004. The parties were represented by counsel and had full opportunity to present argument to the Board.

Based on a review of the record and consideration of the arguments presented, the Board hereby grants Complainant's request to withdraw the instant prohibited practice complaint, without prejudice, pursuant to Hawaii Administrative Rules (HAR) § 12-42-44.¹ Here, Complainant is proceeding with its claims through the contractual grievance-arbitration mechanism thereby rendering the instant complaint moot.

DATED: Honolulu, Hawaii, December 20, 2004


HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chair



CHESTER C. KUNITAKE, Member



KATHLEEN RACUYA-MARKRICH, Member

Copies sent to:

Herbert R. Takahashi, Esq.
Jeffrey A. Keating, Deputy Attorney General
Joyce Najita, IRC

¹HAR § 12-42-44 provides as follows:

Any complaint may be withdrawn at any time prior to the issuance of a final order thereon, upon motion and with the consent of the board. Whenever the board approves withdrawal of such complaint, the case shall be closed.