STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

LEWIS W. POE,

Complainant,

and

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO,

Respondent.

CASE NO. CU-03-214

ORDER NO. 2362

ORDER DENYING POE'S EX PARTE MOTION TO QUICKLY RESUME PRO-CEEDINGS, FILED ON NOVEMBER 3, 2005

ORDER DENYING POE'S EX PARTE MOTION TO <u>QUICKLY RESUME PROCEEDINGS, FILED ON NOVEMBER 3, 2005</u>

On November 3, 2005, Complainant LEWIS W. POE (POE) filed an Ex Parte Motion to Quickly Resume Proceedings with the Hawaii Labor Relations Board (Board). POE stated in his Supporting Declaration that the Board in Decision No. 446, dated February 19, 2004 in this case, found the Union had committed a prohibited practice and ordered the Union to notify the Employer of its intent to proceed to arbitration regarding the Article 21 issue. On September 23, 2005, Arbitrator Jim Nicholson rendered the Arbitration Decision and Award in <u>In the Matter of the Arbitration Between Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, and State of Hawaii, Department of Transportation, Harbors Division and denied POE's grievance. The Arbitrator held that the Board had no authority to alter the time limits contained in the agreement and the Employer was not bound by the Board's decision in favor of POE. Thus, POE requested the Board resume proceedings in the instant case.</u>

Respondent, by and through its counsel, filed a Memorandum in Opposition to POE's motion and contends that Board Decision No. 446 did not reserve jurisdiction over the arbitration decision. Accordingly, Respondent contends that the Board lacks jurisdiction to modify the remedy previously issued in Decision No. 446. Respondent further claims that it has fully complied with Decision No. 446 and Complainant's motion should be summarily denied.

On December 5, 2005, the Board conducted a hearing on POE's motion. Respondent was represented by counsel and POE appeared <u>pro se</u>. The parties had full opportunity to present evidence and argument to the Board. Based on a review of the record and the written and oral arguments presented, the Board hereby denies the instant motion. The Board has no authority to modify Decision No. 446, dated February 19, 2004 which is a final order. Accordingly, the Board denies POE's request to resume proceedings in this matter.

DATED: Honolulu, Hawaii _____ February 15, 2006

HAWAII LABOR RELATIONS BOARD

BK

BRIAN K. NAKAMURA, Chair

EMORY J. SPRINGER, Member

KATHLEEN RA Member

Copies sent to:

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