

STATE OF HAWAII  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	
	)	
HAWAII GOVERNMENT EMPLOYEES'	)	Case Nos. SF-02-32
ASSOCIATION, LOCAL 152,	)	<u>SF-03-33</u>
HGEA/AFSCME, AFL-CIO,	)	<u>SF-04-34</u>
	)	<u>SF-06-35</u>
Petitioner,	)	<u>SF-08-36</u>
	)	<u>SF-13-37</u>
and	)	
	)	Order No. <u>27</u>
THEODORE B. JORDAN,	)	
	)	
Intervenor.	)	

ORDER VOIDING HEARING TO DETERMINE  
REASONABLENESS OF SERVICE FEES; ORDER FOR  
HEARING DE NOVO; ORDER DENYING  
MOTION TO DISMISS

On August 25, 1975, the above-named petitioner (hereafter HGEA) filed a Petition for Certification of Reasonableness of Service Fees. The petition affected employees in collective bargaining units 2, 3, 4, 6, 8, and 13.

An article concerning the hearing to be held on said petition appeared in the Honolulu Star-Bulletin on September 2, 1975.

This Board commenced its hearing on said petition on September 4, 1975. At said hearing, intervenor Jordan appeared and was permitted to intervene in this case.

On September 8, 1975, the above-named intervenor, by his attorney, filed the following motions in Case No. SF-08-36: Motion to Dismiss for Lack of Notice of Hearing to Affected Parties; Motion for Leave to File Written Interrogatories and Motion for Leave to Take Depositions on Oral Examination; and Motion to Extend Time for Hearing. On September 22, 1975, the HGEA filed its memorandum in opposition to these motions. A hearing restricted to the aforesaid motion to dismiss was held before the full Board on September 24, 1975.

In making said motion, the intervenor's primary objection was the Board's failure to give adequate notice of the subject service fee hearing.

§91-1(5), HRS, states:

"'Contested case' means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing."

§91-9(a), HRS, states:

"In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice."

These statutory sections are applicable to service fee cases. Maud et al vs. Amioka et al, Civil No. 35588, December 16, 1971. Even if the proceedings conducted to date in this matter were deemed to be an investigation, Board Rule 1.08(d)(2) would require that notice be given to the employees in the affected bargaining units.

The Board is of the opinion that notice by publication to all public employees having a direct interest or concern in the present service fee matter must be given. Inasmuch as such notice was not given, the Board, on its own motion, hereby voids the hearing held herein on September 4, 1975, and orders a hearing de novo for Case Nos. SF-02-32, SF-03-33, SF-04-34, SF-06-35, SF-08-36 and SF-13-37.

The Board is of the opinion that a dismissal of the HGEA's petition would be inappropriate. Since the failure to give notice was the Board's error, penalizing the HGEA for this error would not be in the interest of justice. The Board therefore denies the intervenor's motion to dismiss.

The Board will publish notice of a prehearing conference and a hearing prior to the commencement of the de novo hearing on the subject petition.

The intervenor's remaining motions will be considered at a future date to be set by the Chairman.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
Mack F. Hamada, Chairman

  
James K. Clark, Board Member

  
John E. Milligan, Board Member

Dated: September 26, 1975

Honolulu, Hawaii