STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HECTOR E. MALDONADO,

Complainant,

and

MICHAEL HOFFMAN, Institutions Division Administrator, Department of Public Safety, State of Hawaii,

Respondent.

CASE NO. CE-03-774

ORDER NO. 2762

ORDER DISMISSING COMPLAINT

ORDER DISMISSING COMPLAINT

On November 29, 2010, Complainant HECTOR E. MALDONADO (Maldonado), filed a Prohibited Practice Complaint (Complaint) with the Hawaii Labor Relations Board (Board) against the above-named Respondent.

On December 7, 2010, Respondent MICHAEL HOFFMAN, Institutions Division Administrator, Department of Public Safety, State of Hawaii (Respondent or HOFFMAN), by and through his counsel, filed a Motion for Particularization of the Complaint contending that the Complainant failed to specify what subsection of Hawaii Revised Statutes (HRS) § 89-13 was alleged to have been violated and how the section was violated. Thus, Respondent is unable to respond to the Complaint and set forth his defenses.

After reviewing the Complaint filed in this case, the Board agreed with the Respondent that the Complaint failed to specifically allege which subsection of HRS § 89-13 was violated and how the subsection was violated, and thus fails to provide a complete statement of facts supporting the Complaint. Accordingly, in Order No. 2754, dated December 20, 2010, Order Granting Respondent Michael Hoffman's Motion for Particularization of the Complaint, Filed on December 7, 2010, the Board ordered Complainant to file a particularized statement of his Complaint with the Board, setting forth which provisions of HRS § 89-13 were violated and in what manner. The Particularization must include a complete statement of the facts supporting the Complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.

Order No. 2754 further stated:

The original plus five copies of the Particularization, with certificate of service on all parties, must be filed with the Board within five days after service of this Order. <u>If Complainant fails to timely file and serve the Particularization</u>, the Board shall dismiss the Complaint. [Emphasis added.]

Hawaii Administrative Rules § 12-42-45(b) also provides:

If the charge is believed by a respondent to be so vague and indefinite that the respondent cannot reasonably be required to frame an answer thereto, such respondent may, within five days after service of the complaint, file with the board a motion for particularization of the complaint, requesting that the complainant file a statement supplying specific information. If the board grants such motion, the complainant shall file with the board the original and five copies of the requested particularization, with certificate of service on all parties, within five days after service of the board's granting order, unless the board directs otherwise. If the complainant fails to timely file and serve the particularization, the board shall dismiss the complaint. Within five days after the service of the complainant's particularization, the respondent shall file with the board the original and five copies of the answer, with certificate of service on all parties, unless the board directs otherwise. [Emphasis added.]

In this case, Complainant did not file a Particularization of his Complaint with the Board within five days after service of the Order No. 2754. Accordingly, pursuant to Order No. 2754, and Hawaii Administrative Rules § 12-42-45(b), the Board hereby dismisses the instant Complaint.

DATED: Honolulu, Hawaii,	January 24, 2011	_,
	HAWAIT ABOR REDAYDONS BOARD JAMES B. MICHOLSON, Chair	_

HECTOR E. MALDONADO v. MICHAEL HOFFMAN CASE NO. CE-03-774 ORDER NO. 2762 ORDER DISMISSING COMPLAINT

> /*||Wah VI. YUI WWW* SARAH R. HIRAKAMI, Member

NORMAN K. KATO II, Membe

Copies sent to:

Jeffrey M. Taylor, Esq. Jeffrey A. Keating, Deputy Attorney General

. · .