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Transaction ID 57340099
Case No. CU-05-302

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

SHANYE N. VALEHO-NOVIKOFF,

Complainant,

and

WILFRED OKABE, President, Hawaii
State Teachers Association; WILBERT
HOLCK, UniServⁱ, Hawaii State
Teachers Association;
CHRISTOPHER CHANG, Maui
UniServ, Hawaii State Teachers
Association; and HAWAII STATE
TEACHERS ASSOCIATION,

Respondents.

CASE NO. CU-05-302

ORDER NO. 3068

ORDER GRANTING IN PART
AND DENYING IN PART
COMPLAINTS [sic] VALEHO-
NOVIKOFF'S REQUEST FOR A
RESCHEDULE OF REPLY AND
HEARING FOR MARCH 24,
2015; NOTICE OF
RESCHEDULED MOTION
HEARING

ORDER GRANTING IN PART AND DENYING IN PART COMPLAINTS [sic]
VALEHO-NOVIKOFF'S REQUEST FOR A RESCHEDULE OF REPLY AND
HEARING FOR MARCH 24, 2015; NOTICE OF RESCHEDULED MOTION HEARING

On November 10, 2014, a status conference was held by the Hawaii Labor Relations Board (Board) in the above-captioned matter. Complainant SHANYE N. VALEHO-NOVIKOFF (Complainant) was present and Respondents WILFRED OKABE, WILBERT HOLCK, CHRISTOPHER CHANG and the HAWAII STATE TEACHERS ASSOCIATION (Respondents) were represented by Rebecca L. Covert, Esq. At the status conference, all parties agreed to the following deadlines and hearing date for the filing and hearing of a motion for summary judgment.

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| Deadline for filing of a motion for summary judgment | 1/09/2015 |
| Deadline for Response due to the motion | 2/20/2015 |
| Deadline for Reply to Response due | 3/05/2015 |
| Hearing on a dispositive motion scheduled for 9:00 a.m. on | 3/24/2015 |

On January 6, 2015, Respondents, by and through their attorneys, Herbert R. Takahashi Esq. and Rebecca L. Covert, Esq. filed RESPONDENTS' MOTION FOR SUMMARY JUDGMENT (Respondents' Motion) with the Board.

On March 2, 2015, Respondents filed RESPONDENTS' POSITION REGARDING A REPLY BRIEF ON MOTION FOR SUMMARY JUDGMENT FILED JANUARY 6, 2015 stating that because Complainant filed no opposition to the Motion, Respondents would not be filing a reply in support of the Motion.

On March 23, 2015, Complainant filed with the Board COMPLAINANTS [sic] VALEHO-NOVIKOFF'S REQUEST FOR A RESCHEDULE OF REPLY AND HEARING FOR MARCH 24, 2015 (Complainant's Motion). The Board finds that this request meets the requirements of Hawaii Administrative Rule (HAR) § 12-42-8(g)(3) for a motion and will treat and refer to this request as Complainant's motion. Complainant's motion stated:

The complainant, Shanye N. Valeho-Novikoff humbly asks for more time to review and properly reply to the summary judgment submitted by the respondents. The complainant will respond to the respondent's motion for summary judgment at a later date. The Complainant has recently assumed a new teaching/librarian position with a private organization and asks to reschedule during June 8 – 12, 2015 when school is recessed.

Complainant did not provide a reason for not filing a written response to Respondent's Motion before the set deadline.

On March 30, 2015, Respondents filed RESPONDENTS' OPPOSITION TO REQUEST FOR RESCHEDULE OF REPLY AND HEARING SCHEDULED FOR March 24, 2015 (Opposition). Respondents' opposition stated that Complainant's failure to file a written opposition to Respondents' Motion constituted a waiver and that a hearing is discretionary.

The Board finds Complainant's request to reschedule the motion hearing for after the end of the school year to be reasonable. HAR § 12-42-8(g)(3)(C)(iv) provides the Board with discretion to decide to hear oral argument or testimony, thereon, in which case the Board shall notify the parties of such fact and of the time and place of such argument or the taking of such testimony. This rule also allows a party to present oral argument during a motion hearing. **Accordingly the Board will grant Complainant's request to reschedule the Motion Hearing previously scheduled for March 24, 2015 at 9:00 a.m.**

Complainant was aware of the deadlines agreed upon by all parties on November 10, 2014 that included the deadline to provide a written response to Respondents' Motion. Complainant did not provide a reason to why she failed to file a written response. **Therefore, The Board denies Complainant's request to reschedule her written response.**

ORDER

For these reasons set forth above, the Board hereby grants in part and denies in part Complainant's Motion filed on March 23, 2015.

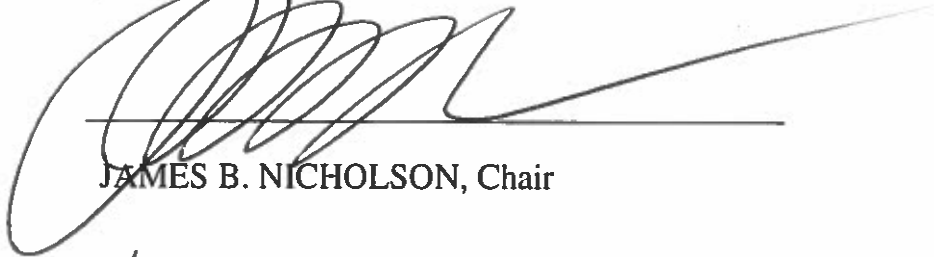
NOTICE OF RESCHEDULED MOTION HEARING

NOTICE IS HEREBY GIVEN that the Board will conduct a hearing on Respondents' Motion for Summary Judgment on **July 22, 2015 at 9:00 a.m.** in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.

Any party not residing on the island of Oahu may appear telephonically at the Motions Hearing by calling Ms. Nora Ebata, Board Secretary at (808) 586-8610, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY islands of Hawaii, Kauai or Maui) to make the necessary arrangements no later than five (5) days prior to the hearing.

DATED: Honolulu, Hawaii, June 4, 2015.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

Copies sent to:
Shanye N. Valeho-Novikoff
Herbert R. Takahashi, Esq.
Rebecca L. Covert Esq.

ⁱ Wilbert Holck is currently the Executive Director of HSTA.