



**EFiled: Jul 22 2016 03:19PM HAST**  
**Transaction ID 59320664**  
**Case No. 2016-CE-11-879**

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII FIRE FIGHTERS ASSOCIATION,  
IAFF, LOCAL 1463, AFL-CIO,

Complainant,

and

KIRK CALDWELL, Mayor, City and County  
of Honolulu; MANUEL P. NEVES, Fire  
Chief, City and County of Honolulu;  
HONOLULU FIRE DEPARTMENT, City  
and County of Honolulu; and CITY AND  
COUNTY OF HONOLULU,

Respondents.

CASE NO. CE-11-879

ORDER NO. 3179

ORDER DENYING MOTION FOR  
RECONSIDERATION

ORDER DENYING MOTION FOR RECONSIDERATION

The Hawaii Labor Relations Board (Board) issues this order denying Complainant Hawaii Fire Fighters Association, IAFF, Local 1463, AFL-CIO's (HFFA) Motion for Reconsideration, filed on July 13, 2016 (Motion for Reconsideration). On July 13, 2016, HFFA filed an Errata to Motion for Reconsideration Filed July 12, 2016.

On March 30, 2016, HFFA filed a Prohibited Practice Complaint with the Board alleging, among other things, that the Honolulu Fire Department (HFD)<sup>1</sup> committed prohibited practices in implementing a fire fighter training program known as the Rapid Intervention Team Training Program (RIT Program). HFFA sought both preliminary and permanent injunctive relief against HFD to enjoin HFD from implementing the RIT Program until HFD either negotiated or consulted with HFFA.

On May 11, 12, 16, 18 and 19, 2016, evidentiary hearings were held on both (1) the merits of HFFA's claims and HFD's defenses, and (2) HFFA/IAFF's Motion for Interlocutory Relief.

---

<sup>1</sup> Respondents Kirk Caldwell, Manuel P. Neves, Honolulu Fire Department and the City and County of Honolulu are herein collectively referred to as HFD.

On June 21, 2016, after the parties filed their post-hearing briefs, the Board issued Decision No. 482. Pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(18)(A) and Hawaii Revised Statutes (HRS) § 91-12, Decision No. 482 was delivered to both parties on June 21, 2016 by electronic transmission on the Board's File & Serve system and by the United States Postal Service's certified mail.

On July 13, 2016, HFFA filed the Motion for Reconsideration.

Relying on HAR § 12-42-8(g)(3)(C)<sup>2</sup> and Hawaii Rules of Civil Procedure (Hawaii Rules of Civil Procedure) Rule 59(e) (Rule 59(e)),<sup>3</sup> HFFA seeks the Board's reconsideration of Decision No. 482, including the Board's interpretation and application of Section 89-9(a) and (d), HRS. The essence of HFFA's challenge to the Board's ruling in Decision No. 482 is its claim that the "Board failed to properly determine the scope of negotiation over wages, hours and other terms and conditions of employment of the trainers and the training under Section 89-9(a), Hawaii Revised Statutes (HRS), and misinterpreted and misapplied the provision of Section 89-9, HRS, as amended in 2007."<sup>4</sup>

On July 19, 2016, HFD filed Respondents' Opposition to Complainant's Motion for Reconsideration Filed July 12, 2016 (HFD's Opposition). HFD's Opposition is based on the following arguments:

1. The Motion for Reconsideration is untimely pursuant to HRCF Rule 59(e) because the Motion was filed more than 10 days after the entry of Decision No. 482.

2. The granting of a motion for reconsideration is limited to unusual circumstances where a party is allowed to present new evidence and/or arguments that could not have been presented during the earlier adjudicated action. HFD argues that this is not the case here.

3. HFFA erroneously asserts that Decision 482 is based on the Board's misapplication of HRS Section 89-9(d).

On July 20, 2016, HFFA filed a Notice of Appeal in the Circuit Court of the First Circuit (HFFA's Circuit Court Appeal).

---

<sup>2</sup> HAR Section 12-42-8(g)(3)(C) generally outlines the requirements of motions "other than those made at a hearing."

<sup>3</sup> **Rule 59(e) Motion to alter or amend judgment** states, "Any motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment."

<sup>4</sup> HFFA Motion for Reconsideration, at 1.

As stated above, in the Motion for Reconsideration, HFFA invokes Rule 59(e) as a basis for the motion.

In HFD's Opposition, HFD takes the position that under Rule 59(e), a motion for reconsideration must be "filed no later than 10 days after entry of judgment." In fact, HFFA in its Memorandum in Support of Motion, concurs, stating, "A motion for reconsideration is governed by the provisions of Rule 59(e) of the Hawaii Rules of Civil Procedure which may be filed no later than 10 days after entry of the judgment." HFD then argues that because Decision No. 482 was issued and filed on June 21, 2016, HFFA had to serve the Motion no later than July 1, 2016. Therefore, because HFFA served its Motion upon the Employer on July 12, 2016 and filed the Motion with the Board on July 13, 2016, the Motion is untimely and must be denied.

The Board notes that Rule 59(e) specifically provides that, "[a]ny motion to alter or amend a judgment *shall be filed no later than 10 days after entry of the judgment.*" (Italics added.) Thus, any motion for reconsideration filed in accordance with this rule is required to be filed within ten days after the entry of a judgment. As HFD contends, the record shows that Decision No. 482 was filed on June 21, 2016; and HFFA filed its Motion for Reconsideration on July 13, 2016, well after the July 1, 2016 deadline. Accordingly, the Board finds that because the Motion for Reconsideration was untimely filed under this rule relied on, the Motion must be denied.

For the reasons set forth above, the Board hereby denies the Motion for Reconsideration.

DATED: Honolulu, Hawaii, July 22, 2016.

HAWAII LABOR RELATIONS BOARD



  
KERRY M. KOMATSUBARA, Chair

  
SESNITA A.D. MOEPONO, Member

  
J. N. MUSTO, Member

Copies to:

Herbert R. Takahashi, Esq., Attorney for HFFA

Elisabeth A. K. Contrades, Esq., Deputy Corporation Counsel, Attorney for HFD

