



EFiled: Dec 15 2016 12:00PM HAST
Transaction ID 59962914
Case No. CE-11-864

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, Honolulu Fire Department, City and
County of Honolulu; HONOLULU FIRE
DEPARTMENT, City and County of
Honolulu,

Respondents.

CASE NO. CE-11-864

ORDER NO. 3217

ORDER GRANTING AND DENYING IN
PART RESPONDENTS' MOTION TO
STRIKE HFFA'S POST-HEARING BRIEF;
ORDER DENYING HFFA/IAFF'S MOTION
FOR RELIEF FROM JUDGMENT OR
ORDER

PART I
ORDER GRANTING AND DENYING IN PART
RESPONDENTS' MOTION TO STRIKE HFFA'S POST-HEARING BRIEF

On November 4, 2016, the Complainant HAWAII FIRE FIGHTERS ASSOCIATION, IAFF, LOCAL 1463, AFL-CIO (Complainant or HFFA) and the Respondents KIRK CALDWELL, Mayor, City and County of Honolulu; MANUEL P. NEVES, Fire Chief, Honolulu Fire Department, City and County of Honolulu; and HONOLULU FIRE DEPARTMENT, City and County of Honolulu, (Respondents) filed a Second Amended Stipulation to Extend Deadline to File Post-Hearing Brief. On November 9, 2016, under Order No. 3206, the Hawaii Labor Relations Board (Board) granted the stipulated request and ordered the parties to simultaneously file their post-hearing briefs no later than December 2, 2016.

On December 2, 2016, the Respondents filed a Post-Hearing brief with the Board.

On December 4, 2016, the Complainant filed a Post-Hearing brief with the Board.

On December 7, 2016, Respondents filed a Motion to Strike HFFA's Post-Hearing Brief (Motion to Strike) for untimely filing based on Hawaii Administrative Rules § 12-42-8 and Board Order No. 3206 rendered on the Second Amended Stipulation to Extend Deadline to File Post-Hearing Brief.

PART II
ORDER DENYING HFFA/IAFF'S MOTION
FOR RELIEF FROM JUDGMENT OR ORDER

On December 12, 2016, HFFA filed HFFA/IAFF's Motion for Relief from Judgment or Order (Motion for Relief) moving the Board to grant it relief from Board Order No. 3206 and denying Respondents' Motion to Strike based on a mistaken belief that the due date for the post-hearing briefs was December 4, 2016 and that the late filing was not to take advantage of Respondent's timely submission of their post-hearing brief. Also attached to the Motion for Relief was a Memorandum in Support of the Motion and in Opposition to Respondents' Motion to Strike HFFA's Post Hearing Brief.

HFFA argued, *inter alia*, that it was a mistaken belief that the "DUE DATE" was December 4, 2016. HFFA's counsel admits receiving a hard copy of the Respondents' Post Hearing Brief and that it was available through FSX, however he states that he did not read the Respondents' Brief.

HFFA also states its opposition to Respondents' Motion to Strike.

As stated in Part I, the parties signed the Stipulation and Order No. 3206 agreeing to the deadline of December 2, 2016. Thereafter, HFFA did not request an extension of the deadline to file its Post Hearing Brief.

CONCLUSION AND ORDERS

The Board finds that the Complainant HFFA did violate the terms of the Stipulation and Order No. 3206 by filing their post-hearing brief two days past the agreed deadline of December 2, 2016. This time was significant enough to have allowed the Complainant HFFA the opportunity to review the Respondents' post-hearing brief before formulating the text of the brief, which was filed by the Complainant on December 4, 2016. Since parties had agreed to simultaneously file post-hearing briefs, the Complainant HFFA should suffer some consequence for the untimely filing. However, the Board does not believe that the best interests of reaching a just decision are served by striking the Complainant HFFA's brief from the record.

Based on the above, the Board HEREBY GRANTS IN PART AND DENIES IN PART Respondents' Motion to Strike and DENIES HFFA's Motion for Relief. Therefore, in the furtherance of fairness and due process, the Board Orders that the Respondents be granted two (2) days from the date of this order to file a reply to the Complainant HFFA's post-hearing briefing without any subsequent reply from the Complainants HFFA.


DATED: Honolulu, Hawaii, December 15, 2016.

HAWAII LABOR RELATIONS BOARD



Sesnita A. D. Moepono
SESNITA A.D. MOEPONO, Member

HFFA v. KIRK CALDWELL, Mayor, City and County of Honolulu, et al.
CASE NO. CE-11-864
ORDER GRANTING AND DENYING IN PART RESPONDENTS' MOTION TO STRIKE
HFFA'S POST-HEARING BRIEF; ORDER DENYING HFFA/IAFF'S MOTION FOR
RELIEF FROM JUDGMENT OR ORDER
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J.N. MUSTO, Member

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