



STATE OF HAWAII

EFiled: Apr 12 2016 12:12PM HAST
Transaction ID 58854747
Case No. OSH 2012-15

HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

R.D. OLSON CONSTRUCTION, INC.,

Respondent.

CASE NO. OSH 2012-15

ORDER NO. 780

ORDER REJECTING RESPONDENT'S
UNTIMELY STATEMENT OF
EXCEPTIONS (FILED 04/1/2016);
EXHIBITS 1 AND 2

**ORDER REJECTING RESPONDENT'S UNTIMELY
STATEMENT OF EXCEPTIONS (FILED 04/1/2016)**

On April 1, 2016, Respondent R.D. Olson Construction, Inc. (Respondent) filed Respondent R.D. Olson Construction, Inc.'s Statement of Exceptions (Respondent's Exceptions). In filing Respondent's Exceptions, Respondent claims that it received on March 11, 2016 a copy of the Hawaii Labor Relations Board's (Board) Order No. 714 which is the Board's Proposed Findings of Fact, Conclusions of Law, and Decision and Order dated November 9, 2015 (Proposed Decision). Respondent also claims that on March 16, 2016 that it "timely filed a motion for an extension of time until April 1, 2016 to file its exceptions to the Proposed Decision."

On April 4, 2016, Complainant Director of Labor and Industrial Relations filed Complainant Director of Labor and Industrial Relations' Objection to Respondent R.D. Olson Construction, Inc.'s Statement of Exceptions dated March 30, 2016 (DLIR's Objections).

Based on DLIR's Objections and the record herein, the Board finds Respondent's Exceptions to be untimely filed and that Respondent can no longer challenge the Proposed Decision and the subsequent Final Order Adopting Order No 714 and its Proposed Findings of Fact, Conclusions of Law, and Decision and Order dated December 3, 2015 (Final Decision). The Board takes notice of the following:

1. Contrary to Respondent's claim that it received a copy of the November 9, 2015 Proposed Decision on March 11, 2016, the USPS tracking information received by the Board indicates that Respondent's attorney, Mr. Kevin Bland, received a copy of the Proposed Decision on November 12, 2015. As stated in the Proposed Decision, Respondent had ten days from November 12, 2015 to file

exceptions with the Board. Respondent failed to file any exception within the ten day period. The Board also notes that Respondent's claim regarding its receipt of a copy of the Proposed Decision on March 11, 2016 is not supported by any sworn declaration of any individual, and that this statement does not address the delivery of the Proposed Decision to Mr. Bland. Attached is a true and correct copy of the USPS tracking information report for this delivery. Exhibit 1

2. Contrary to Respondent's claim that on March 16, 2016 it filed a motion for an extension of time to file its exceptions to the Proposed Decision, the Board has not received any such motion. Similar to Respondent's claim described in Paragraph 1 above, Respondent fails to submit any sworn declaration of any individual to this factual claim.
3. The Board delivered to Mr. Bland the Final Decision and the USPS tracking information received by the Board indicates that Respondent's attorney, Mr. Kevin Bland, received a copy of the December 3, 2015 Final Decision on December 7, 2015. Attached is a true and correct copy of the USPS tracking information report for this delivery. Exhibit 2
4. The Board closed this case when it filed its Final Decision. Pursuant to Hawaii Revised Statute, § 91-14(b), the thirty (30) day period to appeal the Board's Final Decision in this case has expired.

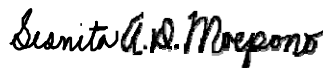
The Board hereby rejects Respondent's Exceptions for the reasons stated above.

Dated: Honolulu, Hawaii, April 12, 2016.

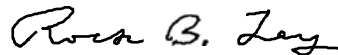
HAWAII LABOR RELATIONS BOARD



KERRY M. KOMATSUBARA, Chair



SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

Copies:

Frances Lum, Deputy Attorney General

Kevin D. Bland, Esq., Attorney for Respondent R.D. Olson Construction, Inc.