

STATE OF HAWAI‘I

HAWAI‘I LABOR RELATIONS BOARD

In the Matter of

BRADLEY WESTERVELT,

Complainant,

and

MAUNA LOA MACADAMIA NUT
CORP.,

Respondent.

CASE NO. 2019-01(CE)

ORDER NO. 3477

ORDER CONSOLIDATING CASES FOR
DISPOSITION

In the Matter of

BRADLEY WESTERVELT,

Complainant,

and

INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION, LOCAL 142,

Respondent.

CASE NO. 2019-02(CU)

ORDER CONSOLIDATING CASES FOR DISPOSITION

CASE NO. 2019-01(CE)

On March 21, 2019, Complainant BRADLEY WESTERVELT (Complainant), self-represented litigant (SRL), filed an unfair labor practice complaint (2019-01(CE) Complaint) against Respondent MAUNA LOA MACADAMIA NUT CORP. (Mauna Loa or Employer) with the Hawai‘i Labor Relations Board (Board), alleging, among other things, that the Employer violated Hawai‘i Revised Statutes § 377-6(6) by forcing him to work on 3rd shift (“graveyard”) for more the maximum allowed four weeks in a row; the International Longshore and Warehouse Union, Local 142 collective bargaining agreement, effective May 1, 2014 through April 30, 2019 (CBA) and his formal job description (Electronics/Instrument Journeyworker Level D) specify

that the employee must rotate between 1st, 2nd, and 3rd shifts after four weeks; and as of March 15, 2019, Complainant worked on the 3rd shift for 10 consecutive weeks and 14 out of the last 18 weeks.

CASE NO. 2019-02(CU)

Complainant, SRL, filed an unfair labor practice complaint (2019-02(CU)) Complaint and collectively with the 2019-01(CE) Complaint referred to as Complaints) against Respondent INTERNATIONAL LONGSHORE AND WAREHOUSE UNION, LOCAL 142 (Union or ILWU) with the Board, alleging, among other things, that he has complained to management and the Union repeatedly and gone through the grievance process multiple times to attempt to secure his right of shift rotation every four weeks; that as of March 15, 2019, he has been scheduled to work on 3rd shift for ten consecutive weeks and 14 out of the last 18 weeks in violation of the collective bargaining agreement between Mauna Loa and the Union, constituting a violation of HRS § 377-6(7); and the ILWU representatives bringing the rotation grievances on his behalf have chosen to forgive or overlook Mauna Loa continuing the practice of not honoring the collective bargaining agreement and forcing shift assignment exemptions to the collective bargaining agreement in violation of HRS § 377-6(5).

Hawai‘i Administrative Rules § 12-42-8(g)(13) (HAR) provides:

(13) The board, on its own initiative or upon motion, may consolidate for hearing or other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues if it finds such consolidation of proceedings or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.

After a review of the above-referenced Complaints, the Board finds, upon its own initiative, under HAR § 12-42-8(g)(13), that the Complaints involve substantially the same parties (Complainant, Mauna Loa, and ILWU), and substantially the same issues arising out of Complainant being forced to work on the 3rd shift more than the maximum allowable four weeks in a row in violation of the CBA and HRS § 377-6. The Board further finds that this consolidation of the proceedings and contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will facilitate, rather than delay, the proceedings thereon for disposition.

Westervelt v. Mauna Loa Macadamia Nut Corp., et al.
Case Nos. 2019-01(CE), 2019-02(CU)
Order Consolidating Cases for Disposition
Order No. 3477

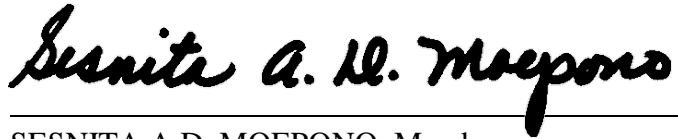
Accordingly, the Board orders the consolidation of Board Case Nos. 2019-01(CE) and 2019-02(CU).

DATED: Honolulu, Hawai'i, March 28, 2019.

HAWAI'I LABOR RELATIONS BOARD



MARCUS R. OSHIRO, Chair



SESNITA A.D. MOEPONO, Member



J N. MUSTO, Member



Copies sent to:

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Roselyn Molina, ILWU Agent
ILWU State Office