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Transaction ID 66457076
Case No. CU-04-291

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

SUSAN SIU,

Complainant(s),

and

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152,
AFL-CIO,

Respondent(s).

CASE NO(S): CU-04-291

ORDER NO: 3726

MINUTE ORDER DIRECTING
RESPONDENT TO SUBMIT PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER IN
THIS MATTER

**MINUTE ORDER DIRECTING RESPONDENT TO SUBMIT PROPOSED FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER IN THIS MATTER**

On February 19, 2010, Complainant SUSAN SIU, *pro se*, (Siu or Complainant) filed a Prohibited Practice Complaint (Complaint) against Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA or Respondent), alleging violations of Hawaii Revised Statutes (HRS) § 89-13(a) (5), (7), (8) and (b) (2), (4), (5) based on the failure of HGEA to fully process a September 3, 2004 grievance for “1. stand-by pay and 2. unpaid overtime.”

On March 4, 2010, Respondent filed HGEA’s Motion to Join the City and County of Honolulu as a Party Respondent. On March 11, 2010, John S. Mukai, Deputy Corporation Counsel, City and County of Honolulu, filed City and County of Honolulu’s Memorandum in Opposition to HGEA’s Motion to Join the City and County of Honolulu as a Party Respondent filed on March 4, 2010. Siu filed no response to the March 4, 2010 Respondent HGEA’s Motion to Join the City and County of Honolulu as a Party Respondent.

On May 20, 2010, Respondent filed Respondent’s HGEA’s Application for Discovery, Depositions, Interrogatories, and Production of Documents of the Complainant and City and County of Honolulu.

On May 28, 2010, the Board issued Notice of Hearing of HGEA’s Motion to Join the City and County of Honolulu as a Party Respondent, Filed March 4, 2010 and Application for

Discovery, Depositions, Interrogatories, and Production of Documents of the Complainant and City and County of Honolulu, filed on May 20, 2010, to be held on June 7, 2010.

On June 7, 2010 a hearing was held on HGEA's Motion to Join the City and County of Honolulu as Respondents in the case, and HGEA's Motion for Discovery, Depositions, Interrogatories, and Production of Documents of the Complainant and City and County of Honolulu, filed on May 20, 2010. After hearing oral arguments from the HGEA, and replies by both Siu and the City and County of Honolulu through its representative Deputy Corporation Counsel John S. Mukai, the Board made an oral ruling denying HGEA's Motion to Join the City and County of Honolulu as a Party Respondent, filed March 4, 2010, and granting HGEA's Application for Discovery, Depositions, Interrogatories, and Production of Documents of the Complainant and City and County of Honolulu, filed on May 20, 2010.

On July 21, 2010, the hearing on the merits (HOM) in this matter commenced with Board Members James B. Nicholson, Chairman, Sarah R. Hirakami, and Norman K. Kato present. Complainant was a self-represented litigant. Respondent was represented by Peter Liholiho Trask, Esq. The HOM continued September 29th and 30th, 2010, after which the parties rested their respective cases.

On November 22, 2010, closing briefs were submitted by both parties, and the hearing was closed.

Hawai'i Labor Relations Board (Board) Chair Marcus R. Oshiro, Member Sesnita A.D. Moepono, and Member J N. Musto did not participate in any proceeding in this matter but have thoroughly reviewed the record, including the files, pleadings, transcripts and exhibits. Accordingly, pursuant to HRS § 91-11,¹ the Board enters the following order and decision.

Hawaii Administrative Rules § 12-42-8(g)(17)(C) provides that the “[B]oard may **direct** oral argument or the filing of briefs or **proposed findings of facts, conclusions of law, or both**, when it deems the submission of briefs or proposed findings, or both, is warranted by the nature of the proceeding or the particular issues therein” (emphases added).

The Board hereby finds that Respondent HGEA is the prevailing party and orders Respondent HGEA to submit a Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

Accordingly, this minute order directs the HGEA to submit to the Board proposed findings of fact, conclusions of law, and decision and order, incorporating the Board's oral rulings in this matter and providing findings of fact and conclusions of law pertinent to the Board's oral rulings denying HGEA's Motion to Join the City and County of Honolulu as Respondents in the case, and granting the HGEA's Motion for Discovery. Respondent shall submit the proposed findings of fact, conclusions of law, and decision and order to the Board with copy to Complainant no later than **the close of business at 4:30 pm on April 16, 2021**.

The Board further notifies the parties that after April 16, 2021, the Board will issue its own Proposed Findings of Fact, Conclusions of Law, and Decision and Order which may or may not incorporate all, some, or none of Respondent's submission. However, following the Board's issuance, any party adversely affected will thereafter be given the opportunity to file exceptions thereto and to present argument to the Board, in accordance with the provisions of HRS § 91-11.

DATED: Honolulu, Hawai'i, _____ March 25, 2021 _____.

HAWAII LABOR RELATIONS BOARD



Thomas R. Oshiro

THOMAS R. OSHIRO, Chair

Sesnia A.D. Moepono

SESNIA A.D. MOEPONO, Member

J.N. Musto

J.N. MUSTO, Member

Copies sent to:

Susan Siu, Pro Se
Peter Trask, Esq.

ⁱ HRS § 91-11 states:

§91-11 **Examination of evidence by agency.** Whenever in a contested case the officials of the agency who are to render the final decision have not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision containing a statement of reasons and including determination of each issue of fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties.