

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

In the Matter of)
)
PROCEEDINGS BEFORE THE)
LABOR AND INDUSTRIAL)
RELATIONS APPEALS)
BOARD.)
_____)

Jun 14 2024, 9:25 am
FILED_{akw}
Labor and Industrial Relations
Appeals Board

ADMINISTRATIVE ORDER 2024-02
(Filing and Service of Documents)

The purpose of this Administrative Order is to update and revise matters concerning the filing and service of documents with the Labor and Industrial Relations Appeals Board.

This Administrative Order supersedes the Labor and Industrial Relations Appeals Board’s Administrative Order 2021-01, filed on June 29, 2021.

WHEREAS, certain provisions of the Labor and Industrial Relations Appeals Board Rules (“LAB Rules”) address the filing and service of documents while a case is pending before the Labor and Industrial Relations Appeals Board (“Board”).

WHEREAS, Section 12-47-13, LAB Rules states that “[a] facsimile shall not be allowed as a substitute for an original, where an original document is required.”

WHEREAS, Section 12-47-18, LAB Rules states that the chief clerk of the Board “shall serve all decisions, orders, notices, and other documents issued by the board, together with any other documents that the board is required by law to serve,” and may “effect service by placing a copy of the document in the attorney’s jacket at the board” or “shall be served personally or, unless otherwise provided by law, by first class mail.”

WHEREAS, Section 91-12, Hawaii Revised Statutes (“HRS”) states that a certified copy of a decision and order be delivered or mailed.

WHEREAS, Section 91-9(d), HRS allows for the modification or waiver of any procedure in a contested case by stipulation of the

parties.

WHEREAS, during the COVID-19 pandemic emergency, the Board permitted documents up to 50 pages to be sent to the Board via email attachment and fax, in addition to United States Postal Service (“USPS”) mail.

WHEREAS, during the COVID-19 pandemic emergency, the Board also served letters, memoranda, notices, orders, decisions and orders, stipulations, and settlement agreements via email attachment.

WHEREAS, the Board anticipated that transmission of documents via email attachment and fax would be provisional and be discontinued by July 31, 2021.

WHEREAS, the parties who sent documents to the Board via email attachment and who were served documents by the Board via email attachment expressed that email was the preferred method to exchange documents because email was more efficient, convenient, secure, reliable, and economical than USPS mail.

WHEREAS, Chapter 489E, HRS permits the submission of an electronic record if a law requires a record to be in writing, permits an electronic signature if a signature is required, and also permits a governmental agency to determine whether, and the extent to which, it will send and accept electronic records and electronic signatures.

WHEREAS, during the COVID-19 pandemic emergency, the Board implemented its use of the Microsoft Teams application to conduct conferences, hearings, and trials, which permitted workers’ compensation appeals to proceed, remotely, with minimal interruption.

WHEREAS, invitations to Microsoft Teams meetings are also sent to email addresses.

WHEREAS, during the COVID-19 pandemic emergency, the Board also re-evaluated and suspended the practice of requiring multiple copies of stipulations and settlement agreements in pending workers’ compensation appeals, which also proved to an efficient, convenient, and economical modification.

WHEREAS, from June 29, 2021 to the present, the Board suspended its limitation of emailed attachments and accepted all email attachments regardless of size.

WHEREAS, the Board is currently unable to efficiently process large email attachments.

NOW THEREFORE, THE BOARD HEREBY ORDERS the following:

NO FACSIMILE

1. As of August 1, 2021, and consistent with Section 12-47-13, LAB Rules, the Board will not receive or file documents sent via facsimile.

DOCUMENTS – IN GENERAL

2. Documents may be transmitted for filing with the Board as follows, using only one of the following methods of transmission for any particular document. Do not send the same document to the Board via more than one method of transmission:

- a. Via email, as an attachment, preferably secured and/or encrypted, to dlir.appealsboard@hawaii.gov (this is the Board's preferred method of filing), provided that the document is less than 50 pages;
- b. Via First Class USPS mail, postage prepaid and addressed to:

**Labor and Industrial Relations Appeals Board
830 Punchbowl Street, Room 404
Honolulu, Hawaii 96813**

- c. Via hand-delivery to the Board's office, during business hours.

3. Document that is 50 pages or more: A document that is 50 pages or more must be printed or presented to the Board for filing on white paper that is 8.5 x 11 inches in size, single-sided. A document that is 50 pages or more must not be transmitted to the Board via email, as an attachment. A document that is 50 pages or more may be transmitted to the Board via First Class USPS mail, postage prepaid or via hand-delivery.

4. Only the following are to be considered official communications from the Board:

- a. Document(s) attached to an email from dlir.appealsboard@hawaii.gov; or

b. Documents sent from the Board by USPS mail.

5. The filing party is responsible for serving a copy of the document that is file-stamped by the Board, upon all parties.

a. If a document is filed with the Board via email, the Board will return a file-marked copy of the document to the sender or filing party, only.

b. If a document is filed with the Board via First Class USPS mail, the Board will not return a file-marked copy of the document, unless the filing party contemporaneously provides a copy or copies of the document in question and a self-addressed, stamped (postage prepaid) envelope for return of any additional copies submitted.

6. Refer to Section 12-47-13, LAB Rules regarding the format for pleadings and other documents. Parties are reminded that all documents submitted to the Board, whether by email, USPS mail, or hand-delivery, must include the following information, preferably on the first page of the document submitted:

a. Title of the case (e.g., the claimant's name);

b. The docket number (e.g., the Board number and the Disability Compensation Division number);

c. The nature of the document; and

d. The name, address, and telephone number of the person or attorney filing the document.

EMAILING – IN GENERAL

7. From and after August 1, 2021, the Board will accept the following documents transmitted to the Board at its email address, dlir.appealsboard@hawaii.gov, if sent as an email attachment:

a. Documents for filing with the Board;

b. Stipulations for consideration by the Board;

c. Settlement Agreements transmitted for consideration by the Board; and

d. Confidential settlement letters.

8. Beyond July 31, 2021, the Board will continue to send and serve documents via email attachment, including but not limited to decisions and orders, to those persons identified in paragraph no. 9, below.

9. The Board will consider the following persons to have agreed to the use of email to receive documents from the Board and to send documents to the Board:

- a. Persons who provide their email addresses to the Board;
- b. Persons who send any communication to the Board via email;
- c. Persons who send a document or documents to the Board via email; or
- d. Persons who agree, orally or in writing, that the Board may use email.

10. Any of the foregoing persons may inform the board that they want to discontinue or opt out of using email to exchange documents with the Board by informing the Board of this preference, in writing. Any future use of email by that person to the Board will be considered that person's agreement to reinstate the use of email to transmit and receive document.

11. For email attachments submitted for filing, the Board will affix a stamp noting that the document has been "FILED" with the date of filing and send a reply email with a file-stamped attachment of the document to the person filing the document, as soon as practicable.

12. For email attachments that are specifically identified as a "CONFIDENTIAL SETTLEMENT LETTER," the Board will affix a stamp noting that the document has been "RECEIVED" with the date of receipt and send a reply email with a stamped attachment of the document to the person filing the document, as soon as practicable.

13. The Board will print the filed email attachments for inclusion in the paper file and may do so in condensed format (2 or more pages per sheet of paper).

14. Documents attached to emails received outside of the Board's regular business hours will be stamped with the date of the next working day of the Board. The date and time of receipt will be determined by the Board's "received" date and time of the email, not the

sender's "sent" date and time.

15. Effective as of the date of this Administrative Order, an email attachment is limited to 49 pages.

16. Microsoft Teams meeting invitations from the Board will be sent from dliir.appealsboard@hawaii.gov.

17. If you encounter any difficulty viewing documents emailed from the Board, contact the Board at (808) 586-8600. The Board's staff will assist you with respect to viewing the document but will not provide any advice or interpretation of the document.

EMAILING – DOs and DON'Ts

18. Do not email any individual Board member or staff and do not include any Board member or staff in email communications among the parties/representatives. The Board will not consider or reply to such emails, and the emails will not be considered, printed, or filed.

19. The Board will not consider, print, or file the text of an email sent to dliir.appealsboard@hawaii.gov. If you have a general inquiry or question, please call the Board at (808) 586-8600.

20. The Board will not consider, print, or file the text of an email transmitting a document for filing or submission. Transmittal coversheets, if any, should be included as part of the document attached to the email.

21. One attachment per email: Do not email the Board with more than one attachment. If a document is comprised of a series of sub-documents (e.g., motion, memorandum in support of motion, declaration, notice of hearing on motion, certificate of service), the entire document must be sent as a one document. It is not the Board's responsibility to organize and/or merge the sub-documents for the filing party.

22. Security and Encryption: The Board prefers that any email and/or the attached document sent to the Board be sent as secured or encrypted, but the email must not include settings that prevent, preclude, or inhibit the Board from opening, storing, or printing the email or attached document. If the Board cannot open, view, store and/or print the email and/or its attached document, the document cannot and will not be filed.

23. Submit a document by ONLY ONE method of transmission.

24. Unless specifically requested by the Board, do not submit a document by more than one method of transmission. Upon request by the Board, a party may be required to also submit by paper, a document previously transmitted by email.

25. Do not email the Board with an attached document that is 50 pages or more.

STIPULATIONS/SETTLEMENT AGREEMENTS

26. The Board prefers that parties submit stipulations or settlement agreements for the Board's consideration by email attachment, provided that the attached document is less than 50 pages.

27. When submitting a paper stipulation or settlement agreement for consideration by the Board, submit only the original. Do not transmit additional copies of the same. The Board will email (or, if necessary, USPS mail) certified copies of approved stipulations and settlement agreements to the parties.

28. A stipulation or settlement agreement that is approved and filed by the Board and included in the Board's paper files will be considered the original, regardless of whether or not the stipulation or settlement agreement contains wet (ink) or electronic signatures.

CD/DVD/USB DRIVE

29. If submitting documents via CD, DVD, or USB drive (i.e., thumb drive, flash drive), the filing party must also submit a written declaration made under the penalty of perjury, with the CD/DVD or USB drive, that confirms the following representations:

- a. That the digital file on CD/DVD or USB drive is being submitted in lieu of a paper original;
- b. That it is requested that the contents on the CD/DVD or USB drive be considered the original;
- c. That the digital file is in .pdf format and is a true and correct copy of the original paper report, record, or document;
- d. That the .pdf file is searchable (i.e., optical character recognition);
- e. That the digital media on the CD/DVD or USB drive is free of malware (e.g., self-executing files, viruses,

worms, Trojan horses, ransomware, spyware, adware, scareware);

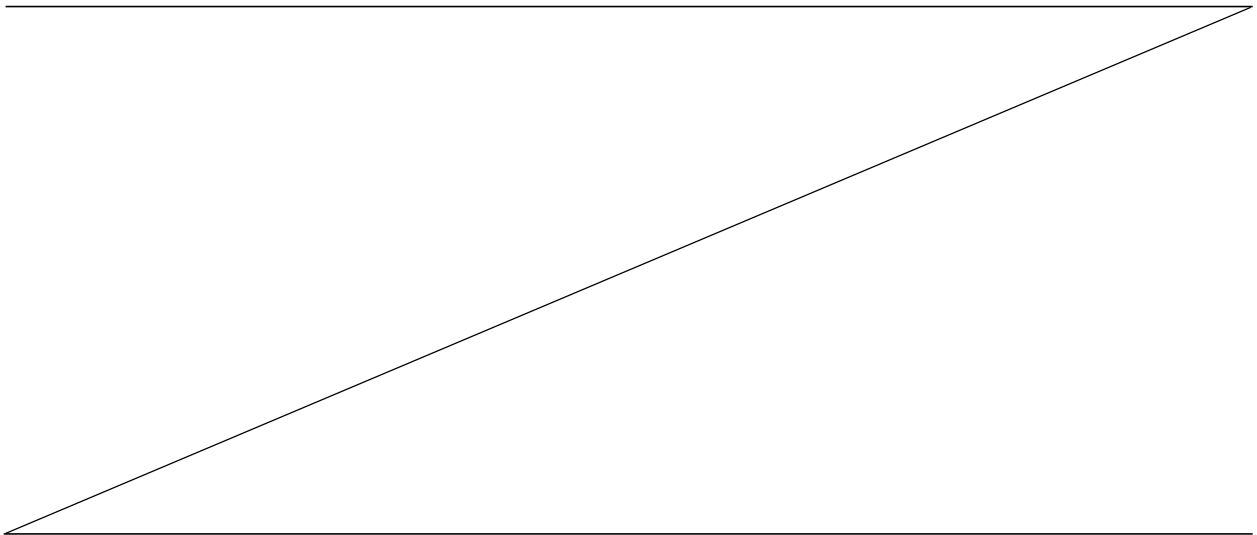
- f. That upon request by the Director and/or the Board, the filing party will immediately present to the Director and/or the Board, the original paper report, record, or document(s) on the CD/DVD or USB drive; and
- g. That the filing party understands that the filing of the CD/DVD or USB drive by the Board is not a guarantee of its inclusion as evidence and that the CD/DVD or USB drive and the information contained therein is subject to objection and/or exclusion from the record.

30. If the above-referenced written declaration does not accompany the CD/DVD or USB drive, the Board will not open, view, store, print, consider, and/or file the documents contained on the CD/DVD or USB drive. The document(s) contained on the CD/DVD or USB drive will not be considered filed by the Board.

31. If the Board cannot open, view, store and/or print the document(s) on the CD/DVD or USB drive, the document(s) cannot and will not be filed.

AMENDMENT/MODIFICATION

32. The Orders contained herein are subject to amendment or modification by the Board.



Jun 14 2024

Dated: Honolulu, Hawai'i,



DAMIEN A. ELEFANTE, Chair



MARIE C.L. LADERTA, Member

LABOR APPEALS BOARD - 830 PUNCHBOWL ST, RM 404, HONOLULU, HI 96813 - (808)586-8600

If you need a language interpreter or if you need an auxiliary aid/service or other accommodation due to a disability, please contact the Board at (808) 586-8600 and/or dlir.appealsboard@hawaii.gov as soon as possible, preferably at least ten (10) business days prior to your hearing or conference date. Requests made as early as possible have a greater likelihood of being fulfilled. If a request is received after the reply date, the Board will try to obtain the interpreter, auxiliary aid/service, or accommodation, but the Board cannot guarantee that the request will be fulfilled.

Upon request, this notice is available in alternate/accessible formats such as large print, Braille, or electronic copy.

Equal Opportunity Employer/Program
Auxiliary aids and services are available
upon request to individuals with disabilities.
TDD/TTY Dial 711 then ask for (808) 586-8600

In the Matter of PROCEEDINGS BEFORE THE LABOR AND INDUSTRIAL
RELATIONS APPEALS BOARD; Administrative Order 2024-02 (Filing and
Service of Documents)

This certifies that the foregoing is a
full, true, and correct copy of the
original on file in this office.



/s/ *A. Watanabe* for LIRAB