

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

SUZANNE O,	)	CASE NO.: AB 2026-029(M)
	)	DCD No.: 7-2025-341929
Claimant-Appellant,	)	
Deceased,	)	
	)	D/A: August 15, 2025
vs.	)	
	)	
COUNTY OF MAUI - POLICE	)	Jul 02 2026, 8:51 am
DEPARTMENT,	)	FILED akw
	)	Labor and Industrial Relations
Employer-Appellee,	)	Appeals Board
	)	
and	)	
	)	
SEDGWICK CMS – HAWAII,	)	
	)	
Insurance Carrier-	)	
Appellee,	)	
	)	
and	)	
	)	
SPECIAL COMPENSATION FUND,	)	
	)	
Appellee.	)	
_____	)	

DECISION AND ORDER

This workers' compensation case is before the Labor and Industrial Relations Appeals Board on appeal by way of a letter filed by **Beau Kikukawa** on May 5, 2026 challenging a Decision by the Director of Labor and Industrial Relations (“Director”) filed on April 9, 2026.

On May 21, 2026, the Board issued an Order to Show Cause (“OSC”), which in relevant part, ordered the parties to respond to why:

1. **Beau Kikukawa**'s appeal filed on May 5, 2026 should not be dismissed for failure to establish his standing and/or legal authority to file an appeal of the Director's April 9, 2026 Decision on behalf of Claimant, Deceased SUZANNE O; and
2. this appeal filed on May 5, 2026 should not be dismissed as untimely.

On June 3, 2026, the SPECIAL COMPENSATION FUND ("SCF") filed a response to the Board's May 21, 2026 OSC.

On June 8, 2026, Employer COUNTY OF MAUI - POLICE DEPARTMENT and Insurance Carrier SEDGWICK CMS – HAWAII (collectively, "Employer") filed a response to the Board's May 21, 2026 OSC.

Beau Kikukawa did not file a written response to the Board's May 21, 2026 OSC.

On Wednesday, June 10, 2026, the OSC came on for hearing before the Board. **Beau Kikukawa** appeared on his own behalf. Susan M. Leeder, Esq. and Abby M.K. Hoke, Esq. appeared for Employer. Gary K.H. Kam., Esq. appeared for the SCF.

The issues to be determined in this Decision and Order are as follows:

1. Whether **Beau Kikukawa**'s appeal filed on May 5, 2026 should be dismissed for his failure to establish his standing and/or legal authority to file an appeal of the Director's April 9, 2026 Decision; and
2. The timeliness of **Beau Kikukawa**'s appeal pursuant to § 386-87(a), Hawai'i Revised Statutes ("HRS").

FINDINGS OF FACT

1. The Claimant in this case is SUZANNE O who sustained a fatal injury when she was shot on August 15, 2025, while on duty as a Maui Police Officer for Employer COUNTY OF MAUI - POLICE DEPARTMENT.

2. Employer accepted liability for the August 15, 2025 injury of Claimant, Deceased, SUZANNE O (hereinafter, "Claimant").

3. On August 21, 2025, Employer initiated this case by filing a WC-1 Employer's Report of Industrial Injury, which was subsequently amended on the same date.

4. On September 2, 2025, the Disability Compensation Division ("DCD") sent letters to the "SURVIVOR(S) OF SUZANNE O" which provided information regarding potential dependent benefits, and which stated in relevant part, that, "if you believe you may be entitled to benefits," that the enclosed WC-5A Dependents' Claim for Workers' Compensation ("WC-5A") be completed and submitted along with specific supporting documents to establish dependency. One letter was addressed to 1010 EHA Street #103, Wailuku, HI 96793, and the other letter containing the same information was addressed to 89 Paa Street, Apt#3, Kahului, HI 96732. The letters did not provide a deadline for filing the WC-5A.

5. On September 9, 2025, an informal probate for Claimant was initiated, Case ID: 2CLP-25-0000242 (*The Estate of Suzanne O*), which

resulted in the appointment of a personal representative on that same date.¹

6. On January 15, 2026, Employer filed a Form WC-77 Application For Hearing, which requested a hearing to determine dependent death benefits and applicable recipient(s) of the death benefits.

7. On January 16, 2026, DCD issued a Notice of Hearing, that set a hearing for March 25, 2026 at 10:00 a.m. for the purpose of determining death benefits, dependency benefits and Claimant's average weekly wage. This notice was sent to Employer, Employer's attorney, and to "SURVIVOR(S) OF SUZANNE O" at "1010 EHA STREET #103, WAILUKU, HI 96793."

8. The record reflects that no WC-5A Dependents' Claim for Workers' Compensation ("WC-5A") was submitted to the DCD prior to the March 25, 2026 hearing.

9. The Director held a hearing on March 25, 2026.

10. The record reflects that no WC-5A was submitted to the DCD prior to April 9, 2026.

11. On April 9, 2026, the Director of Labor and Industrial Relations issued a Decision ("Decision") and certified that on April 9, 2026, a true and correct copy of this Decision was mailed to the parties, including

¹ Information for *The Estate of Suzanne O*, Case ID 2CLP-25-00002442, is electronically available to the public through the Hawai'i State Judiciary's website, specifically via eCourt Kokua at <https://jimspss1.courts.state.hi.us/eCourt/>." Although the case information available in eCourt Kokua reflects that a Statement of Informal Probate, an Appointment of Personal Representative, and Letters of Administration were filed, the name of the individual appointed as the personal representative is not disclosed.

“SURVIVOR(S) OF SUZANNE O” via U.S. Mail and at their last known addresses.²

12. The Director’s Decision determined that Claimant had no dependents.

13. The Director’s Decision and the certificate of service states that the last known address of “SURVIVOR(S) OF SUZANNE O,” to which the Decision was mailed on April 9, 2026, is as follows:

SURVIVOR(S) OF SUZANNE O
1010 EHA STREET #103
WAILUKU, HI 96793

14. At the time of the hearing and when the Director issued his Decision, Claimant was unrepresented and could not be a valid party to an action because of her death.

15. At the time of the hearing, and at the time the Director issued his Decision, there were no SURVIVOR(S) OF SUZANNE O because no WC-5A had been filed.

16. There is no evidence in the record on appeal establishing

² The Board observes that the Director captioned its April 9, 2026 Decision to include “SURVIVOR(S) OF SUZANNE O” as the “Claimant” in this case. This is not technically correct. A Form WC-5A Dependents’ Claim for Compensation was not filed prior to the Director’s April 9, 2026 Decision, and therefore, no survivors’ claim was in existence at the time the Director issued his April 9, 2026 Decision. Accordingly, the Decision should have more correctly identified Claimant as SUZANNE O, Deceased. The Board understands that the Director’s insertion of “SURVIVOR(S) OF SUZANNE O” as “Claimant” on the Decision merely confirms that the survivors of Claimant, Deceased SUZANNE O, if any, were served with a copy of the Director’s Decision at the last known address of Claimant, Deceased SUZANNE O. The Board’s caption, above, however, correctly identifies “Claimant.”

that the personal representative of *The Estate of Suzanne O* was served with a copy of any pleading, notice, or document filed with the DCD.

17. On May 5, 2026, **Beau Kikukawa** filed an appeal of the Director's April 9, 2026 Decision, stating that Claimant had been living with him from 2017-2025.

18. Also on May 5, 2026, **Beau Kikukawa** filed a WC-5A, which identified himself as the "[f]iance" of Claimant and listing Azel Kikukawa, a minor, under "Other Dependents."

19. **Beau Kikukawa's** WC-5A was timely filed.

20. To date, the Director has not issued a Decision regarding **Beau Kikukawa's** claim for dependent's death benefits.

21. The WC-5A filed by **Beau Kikukawa** also represents that the address of **Beau Kikukawa** is as follows:

1010 Eha St. #103
Wailuku, HI 96793.

22. At the hearing, **Beau Kikukawa** confirmed that a court did not appoint him to serve as a personal representative or special administrator to *The Estate of Suzanne O*.

23. At the hearing, **Beau Kikukawa** stated that he began a relationship with Claimant in 2017 on Oahu, and they later moved to Maui because Mr. Kikukawa's mother resided on Maui. While on Maui, Claimant helped him raise his three children, and they were planning to marry. **Beau Kikukawa** stated that Claimant held several jobs before becoming a police officer for the County of Maui. **Beau Kikukawa** further stated that their

relationship deteriorated after Claimant had an affair with a fellow police officer, and they separated in June 2025, at which time Claimant moved from their apartment into a separate residence located at 89 Paa Street, Apt #3, Kahului, HI 96732.

24. To date, no court-appointed personal representative or special administrator of *The Estate of Suzanne O* has appeared in this appeal. Neither the Director nor the Board has substituted Claimant with a court-appointed personal representative or special administrator of *The Estate of Suzanne O*.

25. **Beau Kikukawa** does not possess the legal authority or standing to substitute as Claimant in this workers' compensation case.

26. **Beau Kikukawa** is not a court-appointed personal representative or special administrator for *The Estate of Suzanne O*.

27. **Beau Kikukawa** has not been substituted as a personal representative or special administrator for *The Estate of Suzanne O*.

28. At the time **Beau Kikukawa** filed an appeal of the Director's April 9, 2026 Decision, **Beau Kikukawa** did not have standing or the legal authority to act on behalf of the deceased Claimant SUZANNE O, because he had not been appointed by a court as a personal representative or special administrator.

29. The record reflects that the only WC-5A Dependents' Claim for Workers' Compensation was filed by **Beau Kikukawa** on May 5, 2026, after the issuance of the Director's Decision.

30. The Director has not made a determination regarding **Beau Kikukawa**'s WC-5A Dependents' Claim for Workers' Compensation.

31. At the time **Beau Kikukawa** filed an appeal of the Director's April 9, 2026 Decision, **Beau Kikukawa** did not have standing or legal authority as a dependent to challenge the Decision because the Director had not made a determination on, or reviewed, **Beau Kikukawa**'s WC-5A Dependents' Claim for Workers' Compensation.

32. Pursuant to §386-87(a), Hawai'i Revised Statute ("HRS") the period to appeal the Director's April 9, 2026 Decision is 20 days after a copy of the Decision is sent to the parties.

33. The Director's Decision was sent to the parties on April 9, 2026.

34. Pursuant to §12-47-19, Hawai'i Administrative Rules ("HAR"), Board Rules of Practice Procedure ("LAB Rules"), 20 days after April 9, 2026 is Wednesday, April 29, 2026, which is the deadline to file a written notice of appeal challenging the Director's Decision.

35. **Beau Kikukawa**'s notice of appeal of the Director's Decision was filed with the DCD on May 5, 2026.

36. **Beau Kikukawa**'s notice of appeal was filed 26 days after the Director's Decision was sent to the parties.

37. **Beau Kikukawa**'s notice of appeal was filed 6 days after April 29, 2026.

38. **Beau Kikukawa**'s notice of appeal filed on May 5, 2026 was

not timely filed pursuant to HRS § 386-87(a).

ANALYSIS/DISCUSSION

A. Standing/Legal Authority

Claimant was fatally injured on August 15, 2025, while in the course of her employment as a Maui Police Officer for Employer. Hawai'i workers' compensation law provides for death benefits pursuant to HRS § 386-41, which may include weekly benefits to dependents as defined in HRS § 386-42. To initiate a claim for statutory dependency, individuals file a WC-5A Dependents' Claim for Workers' Compensation. Thus, the DCD mailed the WC-5A forms to her former residence which she shared with **Beau Kikukawa** and her last known address where she resided after her relationship with **Beau Kikukawa** ended. The DCD, however, did not provide any deadline for the filing of the WC-5A.

Approximately four months after sending the WC-5A forms to Claimant's last two known addresses, the DCD issued a Notice of Hearing. The DCD, however, only sent the Notice of Hearing to the address where Claimant resided with **Beau Kikukawa**. It did not send the Notice of Hearing to the address where Claimant resided after the relationship with **Beau Kikukawa** ended. The Notice of Hearing was also issued before the statutory period in which an individual must file a claim for dependent's benefits ended.

On April 9, 2026, the Director issued his Decision, and the Decision was sent to the address where Claimant resided with **Beau Kikukawa**. It did not send the Decision to the address where Claimant resided

after the relationship with **Beau Kikukawa** ended.

Thereafter, on May 5, 2026, **Beau Kikukawa** filed an appeal of the Director's April 9, 2026 Decision and a WC-5A. The issue before the Board is limited to a determination of whether **Beau Kikukawa** had standing and legal authority to file an appeal of the Director's Decision. The Board does not have jurisdiction to determine whether **Beau Kikukawa** is entitled to dependent's death benefits as this issue has yet to be decided by the Director.

Proceedings involving a deceased claimant are governed by the following legal authorities:

“A deceased person cannot be a party to a legal proceeding, and the effect of death is to suspend the action as to the decedent until his legal representative is substituted as a party.” *Bagalay v. Lahaina Restoration Foundation*, 60 Haw. 125 (1978) (citations omitted.)

“As a general rule, the authority of counsel to proceed with a case is terminated upon the death of the party being represented . . . but the courts can pass upon questions raised and listen to suggestions as to their disposal from an attorney who is an officer of the court” *Id.*

“ . . . an heir of an undistributed estate, who has not been judicially appointed as the personal representative of a decedent's estate, is not a ‘proper party’ for substitution” *Roxas v. Marcos*, 89 Haw. 91 (1998), (analyzing the application of HRCF Rule 25(a)(1) and citations omitted).

“The majority rule in other jurisdictions is that only judicially appointed representatives may be substituted for a

decedent party.” *Id.* (Citations omitted.)

§ 12-47-25, LAB Rules: “Upon motion and for good cause shown, the board may order substitution of parties, except that in the case of a party’s death, substitution may be ordered without filing a motion.”

§ 371-4(k), HRS: “The board may make or issue any order or take other appropriate steps as may be necessary to enforce its rules and orders and to carry into full effect the powers and duties given to it by law.”

§ 560:1-302(a), HRS: “To the full extent permitted by the Constitution and except as otherwise provided by law, the court has jurisdiction over all subject matter relating to: (1) Estates of decedents, including construction of wills and determination of heirs and successors of decedents, and estates of protected persons”

§ 560:3-103, HRS: “Except as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court or registrar, qualify and be issued letters. Administration of an estate is commenced by the issuance of letters.”

§ 560:3-105: “Persons interested in decedents’ estates may apply to the registrar for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court’s jurisdiction including but not limited to those described in this article. The court has exclusive jurisdiction of formal proceedings to determine how decedents’ estates, subject to the laws of this State, are to be administered, expended, and distributed. The court has concurrent jurisdiction of any other action or proceeding concerning

a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.”

§ 560:3-703(c): “Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this State at the decedent’s death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as the decedent had immediately prior to death.”

Hawai‘i courts recognize the common law principle that “if a party dies before a verdict or decision is rendered, the action abates as to him and must be dismissed unless it is revived by substitution of a personal representative.” *Bagalay*, 60 Haw. 135 (emphasis added). Our Hawai‘i Supreme Court has made it clear that it is improper to continue legal proceedings because a “deceased person cannot be a party to a legal proceeding, and the effect of death is to suspend the action as to the decedent until his legal representative is substituted as a party.” *Id.* (Emphasis added.)

In this regard, **Beau Kikukawa** has not been appointed as Claimant’s personal representative and cannot substitute as Claimant’s personal representative. Thus, he has no standing or legal authority to appeal on behalf of Claimant. In addition, **Beau Kikukawa** was not a party to Decision because his WC-5A was filed after the Decision was issued. Because he was

not a party to the Decision, he has no authority or legal standing to appeal the Decision in his individual capacity.

Beau Kikukawa is neither a court-appointed personal representative nor a special administrator and **Beau Kikukawa's** dependency claims remain undetermined. Therefore, **Beau Kikukawa** lacks standing and legal authority to appeal the Director's Decision.

While the Board's authority is limited to whether it has jurisdiction over this appeal, the Board notes that the proceedings before the DCD regarding this matter were conducted erroneously.

In this case, after the death of Claimant, an informal probate proceeding was initiated on September 9, 2025, and a personal representative was appointed for *The Estate of Suzanne O.* Because a probate estate was opened and a court appointed personal representative existed, the Director should have provided the personal representative with notice and an opportunity to appear in the proceedings.

Failing to do so improperly denied *The Estate of Suzanne O* with procedural due process. In addition, although DCD sent the letter regarding survivor's benefits to Claimant's last known address along with the address where she resided with **Beau Kikukawa**, the Notice of Hearing and the Decision was only sent to the residence she shared with **Beau Kikukawa**. It is unclear from the record why the Notice and Decision were not sent to Claimant's last known address. Because the Notice and Decision were not properly served, the time from which the personal representative could appeal

the Decision has not yet begun to run.

Additionally, Hawai'i law, specifically HRS § 386-82, mandates a specific period of time to file a dependency claim or WC-5A. The Director had the option to refrain from proceeding until the court appointed personal representative was served, or alternatively, wait until a dependency claim was filed within the period permitted by HRS § 386-82. These options were not exercised by the Director.

Thus, although it is the Board's belief that the Decision should be vacated and the proceedings to determine Claimant's dependents should be started anew, the Board has no authority to vacate the Decision because it does not have jurisdiction over the merits of the Decision.

B. Timeliness of Appeal

Even if **Beau Kikukawa** had standing or legal authority to file an appeal, the appeal must also be dismissed because he received notice of the Decision and his appeal was untimely. It is well-settled that "[a] decision of the director shall be final and conclusive between the parties. . . unless within twenty days after a copy has been sent to each party, either party appeals therefrom to the appellate board by filing a written notice of appeal with the appellate board or the department." HRS § 386-87(a).

The Hawai'i Supreme Court has declared that the time for filing a written notice of appeal is mandatory. *Kissell v. Labor and Industrial Relations Appeals Board*, 57 Hawai'i 37, 38, 549 P.2d 470 (1976).

However, the Hawai'i Supreme Court has also held that "it [is]

incumbent on [the original agency] to determine and prove the date of mailing.” *Dean v. State of Hawaii, Dept. of Education*, 154 Hawai‘i 298, 301, 550 P.3d 1156, 1159 (Haw.2024) (brackets in original, quoting *Waikiki Marketplace Inv. Co. v. Chair of Zoning Bd. of Appeals of City & Cnty. of Honolulu*, 86 Hawai‘i 343, 350, 949 P.2d 183, 190 (App. 1997)). In addressing its prior holding in *Kissell*, the *Dean* Court clarified that “[a]ll *Kissell* said in its two pages is that the plain language of a deadline statute applies.” *Dean*, 154 Hawai‘i at 302, 550 P.3d at 1160. The Court further explained that *Kissell* “did not speak to the amount of evidence needed to establish when a decision was sent.” *Id.* The *Dean* Court made clear that the “DCD must show, and the LIRAB [Board] must have sufficient basis to find, when the decision was sent.” *Dean*, 154 Hawai‘i at 301, 550 P.3d at 1159. Here, DCD must show, and the LIRAB must have sufficient basis to find, when the decision was sent.

The injured worker, in *Dean*, appealed a decision of the Director, filed on March 9, 2022. The worker, however, did not file her appeal until the 21st day after March 9, 2022. As a result, the Board dismissed her appeal as untimely, and on appeal to the Hawai‘i Intermediate Court of Appeals (“ICA”), the ICA affirmed the Board’s dismissal of the worker’s appeal. In vacating the ICA’s order, the Hawai‘i Supreme Court determined that the record must include a “validated document, like a certificate of service or a postal certificate of mailing” that “shows. . . the decision was sent to a worker on a specific date,” suggesting that the DCD “could adopt a certificate of service from Form E-3 of the Rules of the Circuit Courts of the State of Hawai‘i.” *Dean*, 154

Hawai‘i at 302, 550 P.3d at 1160. The Court reasoned that “because DCD controls the start time to appeal its decision and order, and by extension the end time, it must establish the start date by clear, direct evidence.” *Id.*

In this case, the Director’s certificate of service, a validated document, establishes that the Decision was sent to **Beau Kikukawa’s** address, via U.S. Mail, on April 9, 2026. Under HRS § 386-87(a) and HAR § 12-47-19, the deadline to file a notice of appeal was April 29, 2026. **Beau Kikukawa** filed his notice of appeal on May 5, 2026, which is 26 days after the Decision was sent to the parties and 6 days beyond the statutory deadline. This filing is outside the statutory 20-day appeal period. Therefore, **Beau Kikukawa’s** appeal of the Director’s Decision is untimely and must be dismissed.

Accordingly, because **Beau Kikukawa** lacked standing and legal authority to challenge the Director’s Decision, and because his appeal was filed after the statutory 20-day deadline, dismissal is required on the independent grounds of both lack of standing and untimeliness.

CONCLUSIONS OF LAW

Based on the foregoing, it is concluded that:

1. **Beau Kikukawa** lacked standing and legal authority to appeal the Director’s April 9, 2026 Decision.
2. **Beau Kikukawa’s** notice of appeal challenging the Director’s April 9, 2026 Decision was untimely filed on May 5, 2026.

ORDER

In accordance with the foregoing,

IT IS HEREBY ORDERED that **Beau Kikukawa**'s appeal of the Director's April 9, 2026 Decision is hereby dismissed.

If any part of this Decision and Order should have been set forth as a Finding of Fact or a Conclusion of Law, then it shall be deemed as such.

Dated: Honolulu, Hawai'i,

Jul 02 2026



DAMIEN A. ELEFANTE, Chair



HARRY YEE, Member

EXCUSED

DOUGLAS T. MOORE, Member

APPEAL: Pursuant to Section 386-88, Hawaii Revised Statutes ("HRS"), the Decision and Order of the Board shall be final and conclusive, except as provided in HRS Section 386-89, unless within 30 days after mailing of a certified copy of the Decision and Order, a party appeals to the Intermediate Court of Appeals of Hawai'i by filing a written notice of appeal with the Board or by electronically filing a notice of appeal.

Suzanne O v. County of Maui - Police Department, et al.; AB 2026-029(M);
Decision and Order

A digital copy of this Order to Show Cause will be posted on the Board's website and will remain on the Board's website for at least 180 days from the date of filing noted above.

Susan Leeder, Esq.
For Employer/Insurance
Carrier-Appellee

Li-Ann Yamashiro, Esq.
For Special Compensation
Fund-Appellee

Beau Kikukawa (courtesy copy)

A certified copy of the foregoing was served upon the above-captioned parties or their legal representatives on the date of filing noted above.

Jul 02 2026

Decision and Order mailed on: _____

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

Suzanne O v. County of Maui - Police Department, et al.; AB 2026-029(M);
Decision and Order

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