OPINION OF ACOBA, J.,
CONCURRING IN PART AND DISSENTING IN PART

I agree that the Hawai‘i Revised Statutes (HRS) § 386-85(1) (1993) presumption that the "claim is for a work covered injury" applies to the determination of permanent partial disability and disfigurement benefits. See Korsak v. Hawaii Permanente Medical Group, 94 Hawai‘i 297, 306, 12 P.3d 1238, 1247 (2000) (stating that "the use of the word 'any' [in HRS § 386-85(1)] . . . mean[s] that the presumption applies in all proceedings conducted pursuant to the workers' compensation chapter") (citation omitted). However, even giving "due deference to the [Labor and Industrial Relations Appeals] Board's expertise," majority opinion at 22, the record does not disclose that the Board appropriately decided the case. Thus, I would remand the case for application of the principles that follow.

HRS § 386-85(1) "creates a presumption in favor of the claimant that the subject injury is causally related to the employment activity." Chung v. Animal Clinic, Inc., 63 Haw. 642, 650, 636 P.2d 721, 726-27 (1981) (footnote omitted). The "presumption imposes upon the employer both the heavy burden of persuasion and the burden of going forward with the evidence." Id. at 650, 636 P.2d at 726 (citing Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406, 408, 495 P.2d 1164, 1166 (1972)). To the extent the presumption imposes a "heavy burden of persuasion" upon the employer, id. (citation omitted), it is evidentiary in nature and the presumption itself is enough to establish prima

facie evidence of the causal relationship. Thus, in determining whether the "injury," i.e., the permanent disability and disfigurement claimed in the instant case, is causally related to the employment of Respondent/Claimant-Appellant Darryl Igawa, the Board must begin with the proposition that "coverage [is] presumed at the outset[.]" Id. at 651, 636 P.2d at 727. The Board next must determine "whether [any] evidence adduced by the employer is substantial[.]" Acoustic, Insulation & Drywall, Inc. v. Labor & Indus. Relations Appeal Bd., 51 Haw. 312, 317, 459 P.2d 541, 544 (1969). "Substantial evidence" describes the quantum and quality of evidence which the employer must marshal to overcome the presumption. See Akamine, 53 Haw. at 408, 495 P.2d at 1166. It "signifies a high quantum of evidence which, at the minimum, must be 'relevant and credible evidence of a quality and quantity sufficient to justify a conclusion by a reasonable [person] that an injury or death is not work connected.'" Chung, 63 Haw. at 650, 636 P.2d at 726 (quoting Akamine, 53 Haw. at 408, 495 P.2d at 1166). In that regard, medical evidence "that a pre-existing [condition] may have been a contributing or precipitating cause of the [claimed disability] should be accorded little probative weight." Id. at 652, 636 P.2d at 728 (citing Akamine, 53 Haw. at 412, 495 P.2d at 1168). Rather, "[t]he primary focus of medical [evidence] for the purposes of determining legal causation should be whether the employment situation in any way contributed to the

employee's injury." Id. (citation omitted) (emphasis added). If the evidence is substantial, the Board must "weigh and consider the evidence offered by the employer against the evidence offered by claimants supportive of the claim." Acoustic, 51 Haw. at 317, 459 P.2d at 544. Finally, if, as a result of the weighing, "there is a reasonable doubt as to whether an injury is work-connected, it must be resolved in favor of the claimant." Chung, 63 Haw. at 651, 636 P.2d at 727 (citing Akamine, 53 Haw. at 409, 495 P.2d at 1166). See also Survivors of Timothy Freitas, Dec. v. Pacific Contractors Co., 1 Haw. App. 77, 85-86, 613 P.2d 927, 932-33 (1980) (holding that "the [Appeals] Board's conclusion[] [was] supported by substantial evidence which [left] no reasonable doubt as to whether [the claim] was work connected") (footnote omitted). This reasonable doubt standard stems from "the humanitarian nature of the [workers compensation] statute [which] demands that doubt be resolved in favor of the claimant":

> The legislature indeed has cast a heavy burden on the employer in workmen's compensation cases. In its wisdom in formulating public policy in this area of the law, the legislature has decided that work injuries are among the costs of production which industry is required to bear; and if there is reasonable doubt as to whether an injury is work-connected, the humanitarian nature of the statute demands that doubt be resolved in favor of the claimant.

Akamine, 53 Haw. at 409, 495 P.2d at 1166.

As the foregoing passage points out, the "heavy burden" created by the statutory presumption in HRS § 386-85(1) embodies the legislature's judgment that "work injuries" should be treated

as "among the costs . . . industry is required to bear." Id. Thus, this court directed that "if" a reasonable doubt exists as to the work-connected nature of the injury, it was mandated, i.e., "demand[ed]" by the statute that the issue "be resolved in favor of the claimant." Id. That reasonable doubt rule was confirmed in Chung, see 63 Haw. at 650-51, 636 P.2d at 727, and most recently reaffirmed in Korsak. See 94 Hawai'i at 306, 12 P.3d at 1248. Accordingly, the ascertainment of reasonable doubt is germane to every claim where substantial evidence has been adduced by the employer and work-relatedness is an issue. Inasmuch as its existence compels an outcome favoring the claimant, reasonable doubt is a "standard" to be applied in workers' compensation cases. See Black's Law Dictionary 1404 (6th ed. 1990) (defining "standard," inter alia, as "a measure or rule applicable in legal cases").

Findings and conclusions by an administrative agency in a contested case must be reasonably clear to enable the parties and the court to ascertain the basis of the agency's decision. See In re Water Use Permit Applications, 94 Hawai'i 97, 157-58, 9 P.3d 409, 469-70 (citations omitted), reconsideration denied, 94 Hawai'i 97, 9 P.3d 409 (2000); Hawaii Pub. Employment Relations Bd. v. United Pub. Workers, Local 646, 66 Haw. 461, 472, 667 P.2d 783, 791 (1983); In re Application of Hawaiian Tel. Co., 54 Haw. 663, 668, 513 P.2d 1376, 1379 (1973). It cannot be discerned from

the record whether the Board (1) applied the reasonable doubt standard, (2) focused on medical evidence which demonstrated that Claimant's employment incident contributed "in any way" to the disability and disfigurement, Chung, 63 Haw. at 652, 636 P.2d at 728 (citation omitted), and (3) discounted medical evidence that Claimant's pre-existing condition was a "contributing or precipitating cause of the [disability]." Id. (citation omitted).

The majority concedes that "the Board did not expressly address whether [Petitioner/Employer-Appellee Koa House Restaurant and Petitioner/Insurance Carrier-Appellee Pacific Insurance Company] had successfully adduced substantial evidence to overcome the presumption of compensability." Majority opinion at 18. There is no indication the Board properly appraised the medical evidence within the framework referred to supra, and gave effect to any reasonable doubt as to the causal relationship of the disability to the employment incident. The Board's decision and order is entirely devoid of a reference to any of the principles it is required to follow. In the absence of such references, we cannot be "assure[d of] reasoned decision making by the agency[.]" In re Application of Hawaii Elec. Light Co., 60 Haw. 624, 642, 594 P.2d 612, 623 (1973) (citations omitted). Cf. Survivors of Freitas, 1 Haw. App. at 85, 613 P.2d at 933 (stating that "[i]n accordance with its responsibilities under [HRS §] 91-12, the Board should generally state whether or not it has in fact applied

the presumption"). In such a context and without more, we cannot discharge our duties of judicial review. While we may defer to the Board's technical expertise in the area assigned to it, there can be no presumption that the Board applied the law correctly. To hold otherwise is an abdication of the power and responsibility allocated to us in the disposition of workers' compensation appeals.[1]

HRS § 91-14(g) (1993), which governs appellate review of the Board's decisions, provides in pertinent part that "[u]pon review of the record the court may . . . remand the case with instructions for further proceedings." Therefore, I would remand the case to the Board with instructions to apply the foregoing principles and to make the appropriate findings and conclusions.

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[1] State v. Kotis, 91 Hawai'i 319, 984 P.2d 78 (1999), relied on by the majority, and its predecessor, State v. Aplaca, 74 Haw. 54, 837 P.2d 1298 (1992), involved appeals from judge-only trials, where it is traditionally presumed, in the absence of contrary evidence, that the judge applies the law correctly. See, e.g., Ala Moana Boat Owners' Ass'n v. State, 50 Haw. 156, 159, 434 P.2d 516, 518 (1967) ("Appellant has the burden of sustaining his [or her] allegations of error against the presumption of correctness and regularity that attend the decision of the lower court"); Estate of Chuck Lee, 33 Haw. 445, 451-52 (1935) (stating that there is a general presumption in legal proceedings that judicial tribunals act according to law and that "[o]n appeal . . . from the decision of an inferior judicial tribunal an appellate court . . . presume[s] in review that it has complied with all the requirements of law and that its determination rested on facts sufficient to sustain them").