

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JOHN J. FLYNN, III, Claimant-Appellant,

vs.

EXCEPTIONAL INC., dba Employer's Option,
and TRAVELERS INSURANCE COMPANY,
Employer/Insurance Carrier-Appellee.

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS
(CASE NOS. AB 98-516(M) / (7-96-02483)
& AB 98-522(M) / (7-96-02705))

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Claimant-appellant John J. Flynn, III appeals from the decision and order of the Labor and Industrial Relations Board (LIRAB) dismissing his appeal. On appeal, Flynn argues that in dismissing his appeal, the LIRAB erred by: (1) ruling that Hawai'i Revised Statutes (HRS) 386-87(a) (1993)¹ mandated

¹ HRS § 386-87(a) provides:

A decision of the director shall be final and conclusive between the parties, except as provided in section 386-89, 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.

dismissal of his untimely appeal from the decision of the Director of the Department of Labor and Industrial Relations (Director); and (2) calculating the time for appeal from the Director's decision. Flynn also argues that HRS § 386-87 violated his right to due process and denied him equal protection of the law.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that the LIRAB correctly ruled that: (1) compliance with HRS § 386-87 is mandatory, see Kissell v. Labor and Industrial Relations Appeal Board, 57 Haw. 37, 549 P.2d 470 (1976); and (2) the time for appeal began to run when the decision of the Director was mailed. With respect to Flynn's due process claim, we note that Flynn failed to articulate what constitutionally protected interest was deprived in this case. Moreover, Flynn failed to demonstrate how, despite having twelve days from his receipt of the Director's decision, he was denied an opportunity to timely file his notice of appeal. Regarding Flynn's equal protection claim, we hold that HRS § 386-87, on its face, treats all persons purportedly aggrieved by decisions of the Director equally and that Flynn failed to demonstrate that the statute's requirements were discriminatorily applied based upon an unjustifiable standard. Therefore,

IT IS HEREBY ORDERED that the January 18, 2000 decision and order of the LIRAB is affirmed.

DATED: Honolulu, Hawai'i, May 6, 2002.

On the briefs:

John J. Flynn, III,
claimant-appellant,
appearing pro se,

Scott G. Leong and
Normand R. Lezy (of
Leong Kunihiro &
Leong) for employer/
insurance carrier-
appellee