

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28286

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

THOMAS H.H. BRANDT, Claimant-Appellees,

v.

STATE OF HAWAI'I, DEPARTMENT OF BUSINESS AND
ECONOMIC DEVELOPMENT,
Employer-Appellant, Self-Insured

K.HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2006-131 (2-05-40648))

ORDER DISMISSING APPEAL

(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Employer-Appellant State of Hawai'i Department of Business and Economic Development's (Appellant State) from the Labor and Industrial Relations Appeals Board's (LIRAB) October 20, 2006 "Order Denying Motion for Stay of Decision" in Case No. AB 2006-121, because the October 20, 2006 order is not an appealable final decision and order under HRS § 91-14(a) (1993 & Supp. 2006) and HRS § 386-88 (Supp. 2006).

Pursuant to HRS § 91-14(a) (1993 & Supp. 2006) and HRS § 386-88 (Supp. 2006), an aggrieved party may appeal a decision and order by the LIRAB directly to the intermediate court of appeals.

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The appeal of a decision or order of the LIRAB is governed by HRS § 91-14(a), the statute authorizing appeals in administrative agency cases. HRS § 91-14(a) authorizes judicial review of a final decision and order in a contested case or a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief. For purposes of HRS § 91-14(a), we have defined "final order" to mean an order ending the proceedings, leaving nothing further to be accomplished.

Bocalbos v. Kapiolani Medical Center for Women and Children, 89 Hawai'i 436, 439, 974 P.2d 1026, 1029 (1999) (citation and some internal quotation marks omitted).

The LIRAB's October 20, 2006 order neither ended the proceedings in Appellant State's appeal before the LIRAB nor did the October 20, 2006 order leave nothing further to be accomplished. The October 20, 2006 order merely denied Appellant State's motion to stay the Director of the Department of Labor and Industrial Relations' August 28, 2006 decision awarding temporary total disability benefits to Claimant-Appellee Thomas H. H. Brandt while Appellant State's appeal is pending before the LIRAB. The LIRAB has not yet issued a final decision and order.

HRS § 91-14(c) (1993 & Supp. 2006) authorizes the intermediate court of appeals to stay such an order, but only while a valid appeal is pending before the intermediate court of appeals. The intermediate court of appeals does not have appellate jurisdiction over this case under HRS § 386-88 (Supp. 2006) and HRS § 91-14(a) (1993 & Supp. 2006). Furthermore, under the circumstances of this case, the Forgay doctrine and the collateral order doctrine do not apply. See Ciesla v. Reddish,

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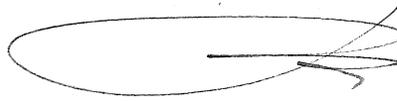
78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995) (regarding the Forgay doctrine) and Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 321, 966 P.2d 631, 633 (1998) (regarding the collateral order doctrine).

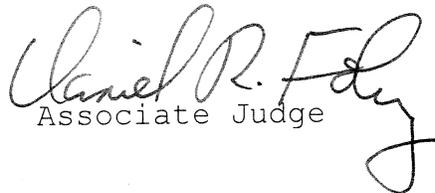
Absent a final decision and order that is appealable under HRS § 386-88 (Supp. 2006) and HRS § 91-14(a) (1993 & Supp. 2006), we lack appellate jurisdiction over this case. Therefore,

IT IS HEREBY ORDERED that the appeal in appellate court case number 28286 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, February 14, 2007.


Chief Judge


Associate Judge


Associate Judge