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CLERK, APPELLATE COURTS
STATE OF HAWAI'I

NOS. 29007 and 29008

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

No. 29007
LOLA SUZUKI, Claimant-Appellant, v.
HEALTHWAYS, INC., Employer-Appellee,
and
ST. PAUL TRAVELERS, Insurance Carrier-Appellee.
(CASE NO. AB 2007-497 (2-06-14727))

and

No. 29008
LOLA SUZUKI, Claimant-Appellant, v.
HEALTHWAYS, INC., Employer-Appellee,
and
ST. PAUL TRAVELERS, Insurance Carrier-Appellee.
(CASE NO. AB 2007-498 (2-07-04617))

APPEALS FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

ORDER GRANTING THE APRIL 24, 2008
MOTIONS TO DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Nakamura and Leonard, JJ.)

Upon review of (1) the two April 24, 2008 motions that Employer/Appellee/Appellee Healthways, Inc. (Appellee Healthways), and Insurance Carrier/Appellee/Appellee St. Paul Travelers (Appellee St. Paul Travelers) filed to dismiss the appeals that Claimant/Appellant/Appellant Lola Suzuki (Appellant Suzuki) has asserted in appellate court case numbers 29007 and 29008, (2) Appellant Suzuki's lack of written opposition to Appellee Healthways and Appellee St. Paul Travelers' April 24, 2008 motions to dismiss, (3) the April 29, 2008 order consolidating appellate court case numbers 29007 and 29008 under appellate court case number 29007, and (4) the record, it appears that Appellee Healthways and Appellee St. Paul Travelers' April 24, 2008 motions have merit, because Appellant Suzuki is appealing from two February 6, 2008 orders by the Labor and Industrial Relations Appeals Board (the LIRAB) that do not end the proceedings in the two ongoing administrative appeals for Appellant Suzuki's workers' compensation claims that are still pending in Case No. AB 2007-497 and Case No. AB 2007-498.

Pursuant to Hawaii Revised Statutes (HRS) § 386-88 (Supp. 2007)[1] and HRS § 91-14(a) (1993 & Supp. 2007),[2] an aggrieved party may appeal a decision and order by the LIRAB directly to the intermediate court of appeals:

> 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). Appellant Suzuki is appealing from the LIRAB's two February 6, 2008 orders that denied Appellant Suzuki's two motions for extraordinary review to direct the authorization of medical care and services, and yet the LIRAB's two February 6, 2008 orders did not end the proceedings

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[1] "The decision or order of the appellate board shall be final and conclusive, except as provided in section 386-89, unless within thirty days after mailing of a certified copy of the decision or order, the director or any other party appeals to the intermediate appellate court, subject to chapter 602, by filing a written notice of appeal with the appellate board." HRS § 386-88 (Supp. 2007) (in part).

[2] HRS § 91-14(a) (1993 & Supp. 2007) provides:

> § 91-14. Judicial review of contested cases.
> (a) Any person aggrieved by a final decision and order in a contested case or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief is entitled to judicial review thereof under this chapter; but nothing in this section shall be deemed to prevent resort to other means of review, redress, relief, or trial de novo, including the right of trial by jury, provided by law. Notwithstanding any other provision of this chapter to the contrary, for the purposes of this section, the term "person aggrieved" shall include an agency that is a party to a contested case proceeding before that agency or another agency.

before the LIRAB in Case No. AB 2007-497 and Case No. AB 2007-498. According to the records on appeal for Case No. AB 2007-497 and Case No. AB 2007-498, the LIRAB has not yet issued final decisions and orders in Case No. AB 2007-497 or Case No. AB 2007-498. Therefore, the LIRAB's two February 6, 2008 orders are not appealable final decisions and orders under HRS § 386-88 (Supp. 2007) and HRS § 91-14(a) (1993 & Supp. 2007). Absent an appealable final decision and order by the LIRAB, we jurisdiction over this consolidated appeal. Accordingly,

IT IS HEREBY ORDERED that Appellee Healthways and Appellee St. Paul Travelers' April 24, 2008 motions to dismiss are granted, and this consolidated appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 6, 2008.

Presiding Judge

Associate Judge

Associate Judge