*** NOT FOR PUBLICATION ***

NO. 24534

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LAW OFFICE OF DAVID M. HAGINO, Petitioner-Appellant

vs.

STATE OF HAWAI'I, DEPARTMENT OF HEALTH,
Respondent-Appellee, Self-Insured

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2000-418 (2-99-40877))

SUMMARY DISPOSITION ORDER
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Petitioner-appellant, Law Office of David M. Hagino [hereinafter "Hagino"] appeals from the Labor and Industrial Relations Appeals Board's [hereinafter "LIRAB"] July 3, 2001 order partially granting Hagino's request for attorneys' fees and costs against the State of Hawai'i, Department of Health [hereinafter "DOH"].[1] On appeal, Hagino claims that: (1) the LIRAB erred when it reduced the requested hourly fee rate from

[1] Hagino appeals directly from LIRAB's July 3, 2001 order pursuant to Hawai'i Revised Statutes [hereinafter "HRS"] § 386-88 (1993), which states as follows:

> **§386-88 Judicial review.** 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 supreme court subject to chapter 602 by filing a written notice of appeal with the appellate board. A fee in the amount prescribed by section 607-5 for filing a notice of appeal from a circuit court shall be paid to the appellate board for filing the notice of appeal from the board, which together with the appellate court costs shall be deemed costs of the appellate court proceeding. The appeal shall be on the record and the court shall review the appellate board's decision on matters of law only. No new evidence shall be introduced in the appellate court, except that the court may, if evidence is offered which is clearly newly discovered evidence and material to the just decision of the appeal, admit the same.

$175/hour to $110/hour, an amount below that which was previously approved by the director of the Department of Labor and Industrial Relations; (2) the LIRAB erred when it reduced the requested hours from 76.25 hours to 51 hours; and (3) the LIRAB erred by failing to adopt findings of fact or otherwise providing an explanation for its order and subsequent denial of Hagino's motion for reconsideration.

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, we hold that the LIRAB's July 3, 2001 order fails to provide a sufficient basis for meaningful review. In order for this court to meaningfully review the arguments presented by the parties on appeal, the LIRAB's order must either provide a sufficient explanation or, absent explanation, the LIRAB's rationale must be readily apparent from the record.[2] Inasmuch as the LIRAB's July 3, 2001 order is devoid of any explanation whatsoever and we can decipher

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[2] See Ranger Ins. Co. v. Hinshaw, 103 Hawai'i 26, 33, 79 P.3d 119, 126 (2003) ("'The reasonableness of an expenditure of attorneys' fees is a matter within the discretion of the circuit court . . . [and, thus, a] detailed explanation of the rationale underlying the reduction in attorneys' fees awarded is unnecessary.' However, the denial or reduction of attorneys' fees must have support in the record.") (citing Finley v. Home Ins. Co., 90 Hawai'i 25, 39, 975 P.2d 1145, 1159 (1998)) (ellipses in original) (alteration in original) (emphasis supplied); Finley, 90 Hawai'i at 39, 975 P.2d at 1159 (upholding the trial court's reduction of attorneys' fees -- despite the trial court's failure to provide an explanation -- because the reduction was supported by the record); Wennik v. Polygram Group Distribution, Inc., 304 F.3d 123, 134 (1st Cir. 2002); Kassim v. City of Schenectady, 415 F.3d 246, 256 (2nd Cir. 2005); Loughner v. Univ. of Pittsburgh, 260 F.3d 173, 178 (3rd Cir. 2001); In re MRRM, P.A., 404 F.3d 863, 870 (4th Cir. 2005); Schwarz v. Folloder, 767 F.2d 125, 133 (5th Cir. 1985); Louisville Black Police Officers Org., Inc. v. City of Louisville, 700 F.2d 268, 273 (6th Cir. 1983); Uphoff v. Elegant Bath, Ltd., 176 F.3d 399, 409 (7th Cir. 1999); Hardman v. Bd. of Educ. of the Dollarway, Arkansas School Dist., 714 F.2d 823, 825-826 (8th Cir. 1983); Chalmers v. City of Los Angeles, 796 F.2d 1205, 1213 (9th Cir. 1986); Mares v. Credit Bureau of Raton, 801 F.2d 1197, 1201 (10th Cir. 1986); Meyer v. Sullivan, 958 F.2d 1029, 1035 (11th Cir. 1992).

no readily apparent rationale from the record, we have no choice but to remand the present matter for recalculation or further explanation. Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is vacated, and the matter is remanded for further proceedings consistent with this order.

DATED: Honolulu, Hawai'i, February 17, 2006.

On the briefs:

David M. Hagino,
petitioner-appellant
pro se

Steve K. Miyasaki, Deputy
Attorney General, for
respondent-appellee