

NO. CAAP-10-0000200

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

EDWARD A. SMITH,
Claimant-Appellant

v.

SUEJI KANEMOTO,
Employer-Appellee,

and

FIRST INSURANCE COMPANY OF HAWAII, INC.,
Insurance Carrier-Appellee

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2008-423(M) (7-78-00428))

ORDER DENYING EMPLOYER-APPELLEE AND
INSURANCE CARRIER-APPELLEE'S MOTION TO DISMISS APPEAL
(By: Leonard, J.)

Upon consideration of: (1) Employer-Appellee Sueji Kanemoto and Insurance Carrier-Appellee First Insurance Company of Hawaii's (Appellees) Motion to Dismiss Appeal; (2) Claimant-Appellant Edward A. Smith's (Appellant) document filed on April 13, 2011, and (3) the records and files herein, it appears that:

1. Appellees are moving to dismiss Appellant's appeal because Appellant did not file the statement of jurisdiction and the opening brief;

2. the statement of jurisdiction and the opening brief are not in default, because the record on appeal was not yet filed;

3. Appellant paid the \$175.00 appellate filing fee and costs, but he did not pay the \$100.00 agency filing fee to the proper payee¹; and

4. on April 4, 2011, the appellate clerk informed Appellant the record on appeal could not be filed without full payment of the filing fee.

Therefore, IT IS HEREBY ORDERED that the motion to dismiss appeal is denied.

IT IS FURTHER ORDERED that within fifteen days from the date of this order, Appellant shall pay the outstanding \$100.00 filing fee or file a motion to proceed in forma pauperis, that is, for waiver of the filing fee. Failure to respond to this order may result in dismissal of the appeal.

DATED: Honolulu, Hawai'i, May 24, 2011.

Associate Judge

¹ Appellant mistakenly sent a check in this latter amount payable to the Intermediate Court of Appeals. The check was returned to Appellant. Payment to the Labor and Industrial Relations Appeals Board has not been made.