

NO. CAAP-19-0000484

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HOWARD M. PEDRO, SR., Claimant-Appellant/Appellant, v.
REEF DEVELOPMENT OF HAWAII, INC., Employer-Appellee/Appellee,
and TRAVELERS CASUALTY AND SURETY COMPANY,
Insurance Carrier-Appellee/Appellee

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2017-184(K); DCD NO. 4-10-00846)

ORDER GRANTING SEPTEMBER 13, 2019 MOTION TO
DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Ginoza, Chief Judge, Leonard and Chan, JJ.)

Upon review of (1) Employer-Appellee/Appellee Reef Development of Hawaii (Reef Development) and Insurance Carrier-Appellee/Appellee Travelers Casualty and Surety Company's (Travelers) September 13, 2019 motion to dismiss appeal for lack of appellate jurisdiction, (2) the lack of any memorandum by Claimant-Appellant/Appellant Howard M. Pedro, Sr. (Pedro), self-represented, in response to Reef Development and Travelers's September 13, 2019 motion, and (3) the record, it appears that Pedro's July 1, 2019 notice of appeal is untimely as to the Labor and Industrial Relations Appeals Board's¹ (LIRAB) February 13, 2019 decision and order in LIRAB Case No. AB 2017-

¹ At all relevant times, the Labor and Industrial Relations Appeals Board appears to have been composed of Chair Danny J. Vasconcellos, Member Melanie S. Matsui and Member Marie C. Laderta.

184 (K). Hawaii Revised Statutes (HRS) § 386-88 (2015) provides in part:

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, or by electronically filing a notice of appeal in accordance with the Hawaii rules of appellate procedure.

Pedro did not file his July 1, 2019 notice of appeal within thirty days after the February 13, 2019 mailing of a certified copy of the February 13, 2019 decision and order to Pedro. Therefore, Pedro's appeal is untimely. The failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and the appellate courts cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986).

Therefore, IT IS HEREBY ORDERED that Reef Development and Travelers's motion to dismiss appeal is granted, and CAAP-19-0000484 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, November 7, 2019.

Chief Judge

Associate Judge

Associate Judge