

**Electronically Filed
Intermediate Court of Appeals
CAAP-22-0000533
28-FEB-2023
10:28 AM
Dkt. 87 OGMD**

NO. CAAP-22-0000533

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

ESTATE OF KIMO I. JARDIN, Claimant-Appellant-Appellee, v.
STATE OF HAWAII DEPARTMENT OF TRANSPORTATION,
Employer-Appellee-Appellant, Self-Insured, and
STATE OF HAWAII DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT,
Adjuster-Appellee-Appellant

SURVIVORS OF KIMO I. JARDIN, Claimant-Appellant-Appellee, v.
STATE OF HAWAII TRANSPORTATION DEPARTMENT,
Employer-Appellee-Appellant, Self-Insured, and
STATE OF HAWAII DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT,
Adjusters-Appellee-Appellant

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2018-123; DCD NO. 4-15-10033)

ORDER GRANTING MOTION TO DISMISS APPEAL

(By: Wadsworth, Presiding Judge, Nakasone and Chan, JJ.)

Upon consideration of Claimants-Appellants-Appellees Kimo I. Jardin and Survivors of Kimo I. Jardin's (**Jardin Parties**) January 27, 2023 Motion to Dismiss Appeal for Lack of Jurisdiction (**Motion**), the papers in support and in opposition, and the record, it appears that the Jardin Parties seek dismissal of the appeal on the basis that the Labor and Industrial Relations Appeals Board's (**LIRAB**) July 6, 2022 Proposed Decision and Order and August 9, 2022 Order Adopting Proposed Decision and Order (together, **Orders**) appealed from are not final, appealable orders because they determine that the underlying claims are compensable, but they do not determine the amount of compensation.

An aggrieved party may appeal from a final decision and order by the LIRAB directly to this court under Hawaii Revised Statutes (**HRS**) §§ 386-88 (2015) and 91-14 (2012). For purposes of HRS § 91-14(a), "final order" means "an order ending the proceedings, leaving nothing further to be accomplished[;] . . . Consequently, an order is not final if the rights of a party involved remain undetermined or if the matter is retained for further action." Bocalbos v. Kapiolani Med. Ctr. for Women & Child., 89 Hawai'i 436, 439, 974 P.2d 1026, 1029 (1999) (cleaned up). Thus, a LIRAB decision merely "finding a workers' compensation claim to be compensable [is] not an appealable final order because the amount of compensation ha[s] yet to be determined." Id. (citing Williams v. Kleenco, 2 Haw. App. 219, 629 P.2d 125 (1981)).

Therefore, IT IS HEREBY ORDERED that the Motion is granted, and appellate case No. CAAP-22-0000533 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, February 28, 2023.

/s/ Clyde J. Wadsworth
Presiding Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge