



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
EMPLOYMENT SECURITY APPEALS OFFICE
830 Punchbowl Street, Room 429
Honolulu, Hawaii 96813
Telephone: (808) 586-8930

March 24, 1998

Mr. Bobby N. Harmon
2920 Ala Ilima Street, Apt. 1103
Honolulu, HI 96818 2506

Dear Mr. Harmon:

Re: Case No. 9701016

This letter is in response to your March 12, 1998 letter in which you requested the reopening of the Appeals Officer's decision dated March 05, 1998. In your request for reopening, you contend that the Appeals Officer denied you due process because the Appeals Officer disallowed the subpoena of witnesses and documents that you requested by letter dated May 27, 1997.

At issue at the last appeals hearing on February 27, 1998 was whether you acted in wilful disregard of the employer's best interest. You participated in the hearing, listened to the employer's testimonies, cross-examined the witnesses, afforded the opportunity to rebut the testimonies, stated your case and argued that you did not act in wilful disregard of the employer's best interest. Before the hearing closed, the Appeals Officer asked whether you had anything further to add and you answered that you did not.

Accordingly, based on the preponderance of the evidence, the Appeals Officer disqualified you for unemployment benefits because you acted in wilful disregard of the employer's best interest. Although the employer directed you to follow the directives of others, you ignored the directives. You acknowledged that you understood the directives but refused to carry them out because you felt that you would be in violation of the I.R.S. Code and the Insurance Commission's Regulations. However, you failed to provide any substantive evidence that supports your concerns.

In the reopening of the Appeals Officer's decision, you again request the subpoena of individuals and documents. However, your explanations do not say that they and the documents will show that the I.R.S. Code and the Insurance Commission's Regulations prohibit you from complying with the directives.

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Administrative Rule 12-5-93 (e) (20) says, "Upon a showing of necessity by any party for the issuance of a subpoena to compel the attendance of a witness or the production of accounts, records and documents at any hearing, a subpoena shall be issued by the referee."

In compliance with the above stated administrative rule, please again state the necessity for the issuance of the subpoena to compel the attendance of the witnesses and the production of the documents for the appeals hearing.

Please reply within ten days following the mailing date of his request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ernest Hanaumi", written in a cursive style.

Ernest Hanaumi
Appeals Officer

EH/jk

c: Sabrina Toma, Esq.