

ACT 22

S.B. NO. 1300

A Bill for an Act Relating to Employment Security Appeals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-38, Hawaii Revised Statutes, is amended to read as follows:

“§383-38 Appeals, filing, and hearing. (a) The claimant or any other party entitled to notice of a determination or redetermination as herein provided may file an appeal from the determination or redetermination at the office of the department [of labor and industrial relations] in the county in which the claimant resides or in the county in which the claimant was last employed, within ten days after the date of mailing of the notice to the claimant’s or party’s last known address, or if the notice is not mailed, within ten days after the date of delivery of the notice to the claimant or party. The department may for good cause extend the period within which an appeal may be filed to thirty days. Written notice of a hearing of an appeal shall be sent by first class, nonregistered, noncertified mail to the claimant’s or party’s last known address.

(b) The appeal under subsection (a) shall be heard in the county in which the appeal is filed, [provided] except that the department may by its [regulations] rules provide for the holding of a hearing in another county with the consent of all parties or where necessary in order that a fair and impartial hearing may be had, and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination or redetermination. The parties to any appeal shall be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and the decisions shall be final and shall be binding upon each party unless a proceeding for judicial review is initiated by the party pursuant to section 383-41; provided that within the time provided for taking an appeal and prior to the filing of a notice of appeal, the referee may reopen the matter, upon the application of the director of¹ [labor and industrial relations] or any other party, or upon the referee’s own motion, and thereupon may take further evidence or may modify or reverse the referee’s decision, findings, or conclusions. If the matter is reopened, the referee shall render a further decision in the matter either reaffirming or modifying or reversing the referee’s original decision, and notice shall be given thereof in the manner hereinbefore provided. Upon reopening, the referee who heard the original appeal shall reconsider the matter, except where the referee is no longer employed as a referee or the referee disqualifies oneself from reconsidering the referee’s decision.

(c) The time to initiate judicial review under section 383-41 shall run from the notice of such further decision, if the matter has been reopened[.] under subsection (b).

(d) If a claimant or party does not receive the written notice under subsection (a), a second written notice shall be sent by certified mail, and the hearing on the appeal shall be rescheduled accordingly.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1997.)

Note

1. “Of” should be bracketed.