



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In the Matter of:

Nathan A. Roppul,

Complainant,

v.

Micronesia Renewable Energy, Inc. –
CNMI,

Respondent.

Labor Case No. 19-042

SUA SPONTE
ORDER OF DISMISSAL

I. INTRODUCTION

On June 3, 2019, Complainant Nathan A. Roppul (hereinafter, “Complainant”) filed a labor complaint against Respondent Micronesia Renewable Energy, Inc. – CNMI (hereinafter, “Respondent”) for unpaid commission. This matter was not referred to mediation.¹

II. LEGAL STANDARD

“The Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth” 3 CMC § 4942.

No labor complaint may be filed more than six months after the date of the last-occurring event that is the subject of the complaint, except in cases where the actionable conduct was

¹ The Department of Labor only employs one Administrative Hearing Officer. Presiding over a mediation and hearing presents a conflict of interest. See Zajradhara v. Jin Joo Corporation, LC-18-060 (Order of Recusal issued May 16, 2019). In order to prevent creating potential conflicts-of-interest and causing unnecessary delays, the undersigned finds the said non-referral appropriate.

not discoverable upon the last-occurring event. In such instance no labor complaint may be filed more than six months after the date a complainant of reasonable diligence could have discovered the actionable conduct. . . .

3 CMC § 4962(b). “The hearing officer may, after notice and opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” 3 CMC § 4947(a); *see also* 3 CMC § 4938(d)(4). The Department’s employment regulations further provide, “if the complaint is not resolved at mediation, a hearing officer may then examine the complaint for timeliness. If the complaint is not timely filed, the hearing office *shall* dismiss the complaint with prejudice.” NMIAC § 80-20.1-465(e) (emphasis added).

III. FINDINGS

1. On June 3, 2019, Complainant filed a labor complaint for unpaid commission against Respondent.
2. The Complainant claim for unpaid commission allegedly occurred between May 2018 and September 2018. Specifically, the Complainant alleges, in part, “[i]t’s been more than 1 year” since the commission was earned.
3. Upon review of the allegations in the Complaint, the undersigned issued an Order requiring Complainant to show that the alleged claims fell within the applicable six month statute of limitations. As ordered, Complainant was required to file the additional information by June 20, 2019. Complainant was duly served a copy of the Order on June 11, 2019.
4. As of the date of this Order, Complainant failed to file the additional information, as ordered.
5. Accordingly, the undersigned finds that Complainant was given notice and an opportunity to respond, yet failed to act. The undersigned further finds that Complainant’s failure to provide additional information warrants reliance solely on the allegations, as written, in the Complaint.

6. Based on the allegations in the Complaint, Complainant's claim(s) for unpaid commission began to accrue sometime between May 2018 to September 2018. Using the latest possible date, the last occurring event that is the subject of the Complaint was Complainant's last day of employment. Intake documents indicate that Complainant's last day of employment was September 12, 2018.
7. Based on the allegations and information provided, Complainant's claim falls outside the six-month statute of limitations.

IV. CONCLUSION

Accordingly, the above-mentioned complaint is **DISMISSED** with prejudice.

So ordered this **28th** day of June, 2019.

/s/

Jacqueline A. Nicolas
Administrative Hearing Officer