

Oneida Tribal Judicial System

Onλyote ʔ a-ka Tsiʔ Shakotiyaʔ Tolé hte

APPELLATE COURT

Dale Wheelock,

Appellant

Docket # 12-AC-020

Vs.

Ed Delgado; Geraldine Danforth,

Respondent

Date: February 6, 2013

DECISION

This case has come before the Oneida Tribal Judicial System, Appellate Court. Judicial Officers; Winnifred L. Thomas, Carole Liggins (Pro Tem), James Van Stippen (Pro Tem), Jennifer Webster and Stanley R. Webster presiding.

I. BACKGROUND

This is an appeal of the Oneida Personnel Commission's Initial Review Body's decision to deny Mr. Wheelock's appeal due to being untimely.

A. Jurisdiction

This case was accepted in accordance with the Oneida Administrative Procedures Act, 1.1-1.

Authority: The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction to enforce

this act as well as the responsibility as a government to protect the health, safety, welfare, and economy of the Oneida Reservation lands and all persons who either reside on the reservation or who are visitors and/or are conducting business within the exterior boundaries of the reservation. The Oneida Tribe shall ensure due process of law for the designated citizens through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution, as amended.

B. Factual Background

On August 3, 2012 Mr. Wheelock was placed on an Investigative Leave due to a “preliminary” report from the Internal Security Department. A report indicated there is a strong possibility that grant funding was misappropriated and equipment misused.

C. Procedural Background

On August 3, 2012 Ed Delgado, Tribal Chairman and Geraldine Danforth, HRD Manager placed Mr. Wheelock on Investigative Leave and escorted him out of his office at the Oneida Housing Authority building.

On August 7, 2012 Mr. Wheelock received a letter from HRD stating that he was placed on Investigative Leave and informing him he was ineligible for insurance benefits as of August 3, 2012.

On August 10, 2012 at approximately 4:10 p.m. Mr. Wheelock was served with an Alternative Work Assignment and Access to Tribal Buildings, that letter was dated and signed August 9, 2012 from Ed Delgado.

In the decision of the Oneida Personnel Commission, dated September 6, 2012, the justification for denying the appeal was Mr. Wheelock’s appeal was untimely.

II. ISSUES

Was Mr. Wheelock's appeal filed untimely?

III. ANALYSIS

No, Mr. Wheelock's appeal was filed timely.

On August 3, 2012 Mr. Wheelock received notice from Ed Delgado and Geraldine Danforth that he, Mr. Wheelock, was being placed on an Investigative Leave due to a "preliminary" report from the Internal Security Department.

On August 10, 2012 Mr. Wheelock received another letter from Ed Delgado dated August 9, 2012. In this letter it starts out "On Monday, August 6, 2012, you were informed the Investigative Leave you received on Friday, August 3, 2012, was rescinded and you were placed on an Alternative Work Assignment pursuant the Standard Procedures: 1., B. of the Investigative Leave Policy. The Alternative Work Assignment notice that was approved and signed by me, as your immediate supervisor, was given to you in the office of Linda S. Dallas, Senior Policy Advisor to Oneida Tribal Chairman Edward Delgado."

In the same letter Chairman Delgado states "The Investigative Leave and the terms contained within the notice became void upon your receipt of the Alternative Work Assignment on Monday, August 6, 2012. With the Alternative Work Assignment came reinstatement of your normal wages and access to your benefits." The letter further states "Please be advised that you are expected and required to report to work at the Oneida Division of Land Management on Monday, August 13, 2012 at 8:00 AM." A failure to report to work as directed could be viewed as job abandonment and may result in disciplinary action."

Mr. Wheelock filed his appeal of the disciplinary actions or adverse employment actions on August 24, 2012.

In accordance with the Oneida Personnel Policies and Procedures V.D.5. 6.b., the employee may

appeal the Area Manager's decision to the Oneida Personnel Commission. The appeal must be filed with the Oneida Personnel Commission within ten (10) working days from employee's receipt of the Area Manager's decision. Upon receipt of the appeal the Commission shall, within one business day, notify the Oneida Human Resources Manager (or designee) that an appeal has been filed by the employee.

Mr. Wheelock was served the letter with the Alternative Work Assignment on August 10, 2012 at 4:10 p.m. The tenth working day would be August 24, 2012.

Mr. Wheelock's appeal was filed timely.

IV. DECISION

This Appellate court hereby remands this case to the Oneida Personnel Commission for a hearing on the merits.

It is so ordered