

**ONAYOTE?A·KÁ· TSI? SHAKOTIYA?TO·LÉHTE?**  
**APPELLATE COURT, INITIAL REVIEW**

**Docket/Parties:** # 12-AC-022 Kim Appel vs Andrew Doxtator

**Date Filed:** October 25, 2012

**Date of Initial Review:** October 30, 2012

The purpose of Initial Review (IR) is to answer threshold questions regarding the jurisdiction of a case and the procedural and material sufficiency of the Notice of Appeal. IR will determine if a case is ripe for appellate review and if not ripe, will determine which Original Hearing Body (OHB) has jurisdiction. IR may affirm or overturn a single issue decision of an OHB where that similar issue has been settled as a matter of law by previous appellate court decisions. In accordance with the Oneida Nation Administrative Procedures Act, §XI, F and the Oneida Tribal Judicial System, Appellate Court, Rules of Appellate Procedure, the IR body shall accept an appeal when an Appellant **alleges with sufficient clarity** that the OHB **decision** contains one or more of the following elements:

1. \_\_\_ A violation of constitutional provisions.
2. \_\_\_ The decision is outside the scope of the authority or otherwise unlawful.
3. \_\_\_ The decision is clearly erroneous and is against the weight of the evidence presented at the hearing level.
4. \_\_\_ The decision is arbitrary and/or capricious
5. \_\_\_ There is exhibited a procedural irregularity which would be considered a harmful error that may have contributed to the final decision, which if the error had not occurred, would have altered the final decision.
6. \_\_\_ There is presentation or introduction of new evidence that was not available at the hearing level, which, if available, may have altered the final decision.

**INITIAL REVIEW DECISION**

Judicial Officers Winnifred L. Thomas, Lois Powless, Janice L. McLester presiding.

**Not Accepted:** This Appellate Court affirms the Oneida Personnel Commission's decision dated October 11, 2012, to deny Ms. Kim Appel a grievance hearing. The Oneida Personnel Commission cited GTC Resolution 2-29-04A, V.D.6.a.4.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 the 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.

TO: The Original Hearing Body in the above captioned case. Notice is hereby given that the Oneida Tribal Judicial System, Appellate Court has taken jurisdiction of this case and requests all evidence used by the lower hearing body and a copy of the decision. The evidence should be mailed or delivered within fourteen (14) calendar days upon receipt of this request. Evidence will be mailed or delivered to:

**The Oneida Tribal Judicial System**  
**P.O. Box 19, Suite # 1 Ridgeview Plaza**  
**3759 West Mason Street, Oneida, WI 54155**

Lead Judicial Officer Signature and Date:

 10/30/12