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APPELLATE COURT, INITIAL REVIEW

Docket/Parties: #14-AC-011, Brian Stevens vs Oneida HRD/Benefits

Date Filed: 8-11-14

Date of Initial Review: 08-14-14

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 and Stanley Webster, presiding.

Accepted: Rule 9, (D), (4), The decision is arbitrary and/or capricious. A decision is arbitrary and capricious when there has been a clear error of judgment and there is no rational connection between the facts found and the filing made. Rule 9, (D), (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. A procedural irregularity is an event or circumstance where a rule or other requirement was not met or followed.

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: Winnifred L. Thomas 8-14-14