

COURT OF APPEALS

Oneida Human Resources Department,

Appellant,

Case No.: 16-AC-010

v.

Elijah Metoxen, and
Tsyosha^aht Delgado,

November 2, 2016

Respondents.

**RULING ON PETITION FOR PERMISSION TO APPEAL,
ORDER GRANTING STAY
AND
ORDER FOR BRIEFS**

This matter has come before the Oneida Judiciary, Appellate Court Judges: Jennifer Hill-Kelley, Jean Webster, pro tem, and Kathy Hughes, pro tem, presiding.

On October 10, 2016, the Oneida Human Resources Department (hereinafter “Appellant”), filed, pursuant to the Oneida Rules of Appellate Procedure §154.6-1, a Petition for Permission to Appeal the interlocutory order of the Oneida Personnel Commission (hereinafter “OPC”) dated September 27, 2016. In their decision, the OPC denied Appellant’s motion to dismiss in 16-SP-001, finding subject matter jurisdiction in regard to the complaint/appeal of hiring processes filed by Elijah Metoxen and Tsyosha^aht Delgado (hereinafter “Respondents”). The Appellant, pursuant to §154.5-1, also filed a Request for a Stay of Proceedings and Enforcement of Subpoena in Cause Number 16-SP-001.

After review of the information contained in the Appellant's Petition, as well as the OPC's Motion Decision, pursuant to §150.8-4(c), it is determined the Appellant has sufficiently alleged the Decision is an administrative decision that is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law.

The Appellant's Petition for Permission to Appeal is granted, and the interlocutory appeal is hereby **ACCEPTED**, specifically for the review of the Oneida Personnel Commission's Decision of the Appellant's motion to dismiss. The Respondents' complaint/appeal regarding the hiring process is not being addressed with this action.

In accordance with §154.5-1(a), a stay shall be granted in all cases in which it is requested unless plain and obvious injustice would result from granting the stay. Based on the foregoing, a Stay of any and all further proceedings before the Oneida Personnel Commission in 16-SP-001 is ordered pending the disposition of this appeal with the Oneida Judiciary.

TO THE APPELLANT AND RESPONDENTS: Pursuant to §154.4-1, this Court hereby Orders the parties to provide briefs in support of their position of the Appellant's original Motion to Dismiss before the Oneida Personnel Commission within thirty (30) calendar days of receipt of this Order.

TO THE ONEIDA PERSONNEL COMMISSION:

As the original hearing body in the above captioned case, Notice is hereby given that the Oneida Judiciary, Court of Appeals has taken jurisdiction of this case and requires the hearing record as

set forth in 154.8-4(a), “The record of the case shall consist of all papers filed with the Trial Court or original hearing body, exhibits, a transcript or audio recording of the proceedings, and the final decision of the Trial Court or original hearing body.” The record shall be filed with the Court of Appeals within thirty (30) calendar days upon receipt of this Notice.

By the authority vested in the Oneida Judiciary, Court of Appeals, in Oneida General Tribal Council Resolution 01-07-13-B, this Ruling on Permission to Appeal, Order to Stay, and Order for party Briefs is entered this 2nd day of November, 2016 in the matter of Case # 16-AC-010, *Oneida Human Resources Department v. Elijah Metoxen and Tsyosha^aht Delgado*.

It is so ordered.