

**ONEIDA JUDICIARY**  
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**TRIAL COURT**

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**Janine Audrey Doxtator,**  
**PETITIONER,**

v.

**CASE NO: 18-TC-008**

**Oneida Comprehensive Housing,**  
**RESPONDENT**

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**ORDER**

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This case has come before the Oneida Trial Court, Honorable Denice Beans presiding.

Appearing in person: Respondent: Oneida Comprehensive Housing represented by Attorney Robert J. Collins II and Laurel Meyer Spooner.

Not appearing in person: Petitioner, Janine Audrey Doxtator.

**STATEMENT OF THE CASE**

The Court received a petition, from Janine A. Doxtator, for a Temporary Restraining Order to stay the eviction on the residence located at N5848 Sandhill Court, DePere, WI 54115, by Oneida Comprehensive Housing. The Temporary Restraining Order was granted to stay any further eviction action. A hearing was held on March 16, 2018 at 1:30 pm.

**ISSUES**

- 1) Is the Petitioner entitled to extend the time to pay the back rent and utility bills for the residence located at N5848 Sandhill Court, DePere, WI 54115?
- 2) Is the Petitioner entitled to continue to reside at N5848 Sandhill Court, DePere, WI 54115?

**FINDING OF FACTS**

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. On March 14, 2018 the Petitioner filed a Temporary Restraining Order to stop the eviction of her and her family from the residence located at N5848 Sandhill Court, DePere, WI 54115, which was granted.

3. A hearing was held on March 16, 2018 at 1:30pm.
4. Attorney Collins asserted the Comprehensive Housing Division to the jurisdiction of the Court.
5. The Petitioner failed to appear, plead, or prosecute.
6. The Respondent stated that warning letters were sent to the Petitioner in June and October of 2017 for unpaid rent and/or utilities.
7. A warning letter of potential termination of the rental agreement was sent of January 24, 2018.
8. On February 8, 2018 a 30 day notice was sent to cure or vacate.
9. The Petitioner was found to be in default.
10. The Respondent requested that the temporary restraining order be lifted and the eviction procedure to continue. The Court granted this request.
11. The Respondent requested that the Petitioner be ordered to vacate the residence. The Court granted this request.
12. The Respondent requested that the Petitioner pay for any outstanding rent, past due utilities, damages or property maintenances. The Court granted this request.

## **PRINCIPLES OF LAW**

### **610.5. Early Contract Termination**

610.5-1. *Causes for Early Contract Termination.* The owner may terminate the contract prior to the contract term and evict the occupant, if the occupant:

- (a) Violates the terms of the contract;
- (b) Is alleged to have violated any applicable law or rule; and/or
- (c) Is alleged to have committed one or more nuisance activities.

610.5-2. *Domestic Abuse Defense to Eviction.* An occupant has a valid defense to eviction if he or she alleges that if not for the alleged domestic abuse, which is noticed to the owner with any of the following documentation, there would not be cause for eviction under section 610.5-1:

- (a) An injunction order under Wis. Stat. 813.12(4) or any other law of the Nation protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 or any other law of the Nation protecting a child of the tenant from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) or any other law of the Nation protecting the tenant or child of the tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;

(d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the Tenant; 948.025;

(e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025

(f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the tenant under Wis. Stat. 940.32 or

(g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

610.5-3. *Notice.* This section governs the amount of notice required to evict as well as the manner and form of notice required. When an owner provides notice in compliance with these requirements, the occupant is not entitled to possession or use of the premises after the date of the termination provided in the notice.

(a) *Eviction for Failure to Pay Rents.*

(1) If an occupant fails to pay any installment of rent when due, the occupant's contract is terminated if the owner gives the occupant notice requiring the tenant to pay rent or vacate on or before a date at least thirty (30) calendar days after the giving of the notice and if the occupant fails to pay accordingly.

## **Rule No. 1 – Disposal of Abandoned Personal Property**

### 1.4. Storage and Disposal of Personal Property

1.4-1. *Designated Period for Removal of Personal Property.* The initial period designated for removal of personal property following a contract termination is five (5) business days, as provided in section 610.6-1 of the Eviction and Termination law. The initial designated period may be extended in the owner's discretion to a maximum period of fifteen (15) business days from the date of contract termination. The only circumstance under which the timeframe for removal of personal property may be extended beyond the maximum period is in the event of the death of a tenant based on a written agreement executed in the owner's discretion. During the designated period for the removal of personal property:

(a) The owner shall store all personal property within the reclaimed premises and grant access to the former occupant for purposes of removal of personal property.

(b) The only access the owner may grant to the premises is as follows:

(1) To the former occupant for purposes of removal of personal property;

(2) To the owner's maintenance staff for emergency maintenance checks and repairs as may be deemed necessary in the owner's discretion; and/or

(3) To the owner's administrative staff for purposes of assessment of the condition of the premise.

(c) Former occupants may access the reclaimed premises by contacting the owner to schedule an access appointment. Access appointments are limited to business days from 8:00 a.m. to 2:30 p.m., provided that the owner may provide access appointments outside of these limited time periods in its discretion.

## ANALYSIS

The Petitioner filed a petition for a temporary restraining order to stop the eviction of herself and family from the residence located at N5848 Sandhill Court, DePere, WI 54115. In her petition she stated that she had to leave and stay elsewhere because of escalating domestic abuse by Klynt Brown, another adult resident. In order to use the *Domestic Abuse Defense to Eviction 610.5-2*, she would have had to provide documentation. The Petitioner did not submit documentation with the petition and she did not appear at the hearing to provide any other information to support her claim of domestic abuse.

The Petitioner was given appropriate notice to pay rent or vacate on or before a date (30) calendar days after the notice was served. The Petitioner did not contact the Oneida Comprehensive Housing Division about her situation or to request a meeting to come to an agreement for paying the past due debts.

The eviction is upheld and the temporary restraining order is lifted. The Petitioner may claim any personal property as stated in Rule # 1.4-1. *Designated Period for Removal of Personal Property*.

## CONCLUSIONS OF LAW

- 1) The Petitioner is not entitled to an extension of time to pay the back rent and utility bills for the residence located at N5848 Sandhill Court, DePere, WI 54115.
- 2) The Petitioner is not entitled to continue to reside at N5848 Sandhill Court, DePere, WI 54115.

## ORDER

- 1) The motion to uphold the eviction is granted.
- 2) The motion to lift the Temporary Restraining Order is granted.
- 3) The Petitioner will contact Oneida Comprehensive Housing Division to schedule an access appointment to remove personal property from the residence located at N5848 Sandhill Court, DePere, WI 54115.
- 4) The Petitioner is ordered to pay for any outstanding rent, past due utilities, damages or property maintenances.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council and Order signed on March 20, 2018 in the matter of Janine Audrey Doxtator v Oneida Comprehensive Housing Division. Case #18-TC-008.