

ONEIDA JUDICIARY
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TRIAL COURT

Gina D. Buenrostro,
PETITIONER,

v.

CASE NO: 18-TC-010

Bradley Graham-
Chairperson,
Oneida Personnel Commission,
RESPONDENT

Denial for Temporary Restraining Order

STATEMENT OF THE CASE

The Petitioner requested a temporary restraining order stop the termination of her position as Oneida Personnel Commission Administrator and to appeal her Supervisor's decision to terminate the Petitioner from her position.

ISSUE

Does the Oneida Judiciary Trial Court have Jurisdiction to hear the Petitioner's appeal of termination from employment that was rendered by Bradley Graham-Chairperson, Oneida Personnel Commission?

FINDING OF FACTS

1. A Disciplinary Action Form was issued to Gina Buenrostro terminating her from employment with the Oneida Tribe of Indians of Wisconsin on March 19, 2018.
2. The box was checked that the employee was unavailable to sign.
3. The box was also checked that the employee declined to sign.
4. The Oneida Judiciary was listed as the Area Manager on the Disciplinary Action Form for purposes of appeal.
5. The Oneida Judiciary cannot be designated as an Area Manager.
6. The Oneida Appeals Commission/ Oneida Tribal Judicial System were decommissioned on March 1, 2015.
7. This case is an employment case subject to the Oneida Nation Employee Manual.

8. The Appeals Policy and Procedure is the third page attached to the Disciplinary Action Form.
9. The proper place for this case to be heard is with the Oneida Personnel Commission's Supervisor.
10. The Trial Court lacks subject matter jurisdiction.

PRINCIPLES OF LAW

1. **Oneida Nation Employee Manual. Employee Relations. 6. Grievance (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 HRD Manager (or designee) that an appeal has been filed by the employee.

2. **801.5-2. Subject Matter Jurisdiction.** The Tribe is a sovereign nation and reserves all sovereign rights, authority and jurisdiction consistent with being a sovereign nation. The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following:

- (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction.
- (b) the Constitution.
- (c) where an agency has denied a person a benefit or has provided a person with an incorrect or incomplete benefit, or has imposed a fine on a person, and the person has exhausted the process provided by law, if any, for review of the action, and
 - (1) a hearing body has not been designated by law for the purpose of an appeal; or
 - (2) there is no law providing that the agency's decision is final and/or not appealable.

ANALYSIS

The Law provides an avenue for appealing a supervisor's decision to terminate an employee. In this case there is confusion because positions such as a General Manager or Area Manager do not apply to the Oneida Personnel Commission (OPC). The Petitioner would have to appeal to the Supervisor of the OPC and then further follow the chain as stated in the Appeals Policy and Procedure. The Petitioner has to exhaust the process provided by law. There are additional levels of appeal including a hearing body designated by law for the purpose of an appeal.

There are no Tribal laws which specifically authorize the Trial Court to exercise jurisdiction in this case.

CONCLUSIONS OF LAW

The Oneida Judiciary Trial Court does not have Jurisdiction to hear the Petitioner's appeal of termination from employment that was rendered by Bradley Graham- Chairperson, Oneida Personnel Commission.

ORDER

The request for a temporary restraining order and hearing an appeal is denied.

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 3/29/2018 in the matter of *Gina D. Buenrostro v Bradley Graham-Chairperson, Oneida Personnel Commission* Case #18-TC-010.