

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Cory Joe Powless,
PETITIONER,

v.

CASE NO: 18-EMP-007

Blair Braaten,
Area Manager,
Assistant Slot Director,
RESPONDENT

EMPLOYEMENT TERMINATION REVIEW

STATEMENT OF THE CASE

The Petitioner filed a complaint on June 28, 2018 contesting the decision of the Respondent. The Respondent upheld the Petitioner's immediate supervisor's decision to terminate the Petitioner from employment on May 30, 2018.

The Trial Court will determine if one or both of the following conditions exist:

- a) The Area Manager's decision was clearly against the weight of the evidence.
- OR**
- b) Procedural irregularities existed during the appeal process that was harmful to a party.
- And**
- c) If there is any New Evidence to consider.

ISSUES

- 1) Is the Area Manager's decision clearly against the weight of the evidence?
- 2) Did procedural irregularities exist during the appeal process that was harmful to a party?
- 3) Is there any New Evidence to consider?

ANALYSIS

In the complaint the Petitioner checked the box under 5.a.-*See attached for more information.* The information should have stated why the decision of the Area Manager is clearly against the weight of the evidence. The Petitioner attached the first and last pages (the second page was not

submitted) of the letter from the Respondent with the decision to uphold the termination. There weren't any comments or reasons stated by the Petitioner as to why the decision of the Area Manager is clearly against the weight of the evidence.

The Respondent's decision was reviewed. The Petitioner was contacted at least three different times by phone and messages left for the Petitioner to meet and discuss why he believes the termination should be overturned. The Petitioner did not contact the Respondent and did not appear for the meeting scheduled for Monday June, 18, 2018.

The Petitioner submitted four areas of contention when he appealed his immediate supervisor's disciplinary action decision to terminate his employment. The Respondent methodically addressed each of the four areas individually. The Court did not find any part of the decision that was clearly against the weight of the evidence.

In the complaint under 5.b. the Petitioner stated:

Both supervisors were present during a write up the day prior, without my permission.

The Court examined *Section V-Employee Relations* of the Oneida Nation Employee Manual and found that there was nothing that stated the number of supervisors that could or could not be present at a meeting with an employee being disciplined. Furthermore, nothing is in *Section V* that states that an employee has to give permission for one or more than one supervisor to attend a meeting for a disciplinary action.

Additionally, the Petitioner did not explain how more than one supervisor, in attendance, without his permission would be harmful to a party.

The Petitioner checked the "Yes" box under number four on the complaint that there is New Evidence. No new documentation or information was submitted with the complaint. The Petitioner stated:

The supervisors have made numerous attempts to add corrective action during discussion of first written warning.

The Court does not consider an "attempt" as evidence in this case; therefore, no New Evidence was submitted.

CONCLUSIONS OF LAW

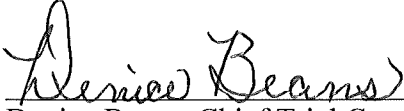
- 1) The Area Manager's decision is NOT clearly against the weight of the evidence.
- 2) Procedural irregularities did NOT exist during the appeal process that was harmful to a party.
- 3) There is NO New Evidence to consider.

ORDER

The Court **DENIES** the request for a hearing and **AFFIRMS** the decision of the Area Manager.

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 July 16, 2018 in the matter of *Cory Joe Powless v Blair Braaten, Assistant Slot Director, Area Manager* Case #18-EMP-007.



Denice Beans, Chief Trial Court Judge