

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Misty D. House,
PETITIONER,

v.

CASE NO: 19-TC-008

Oneida Comprehensive Housing Division,
RESPONDENT

ORDER

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

Appearing in person: Petitioner, Misty D. House and Caroline Smith.

Respondent, Oneida Comprehensive Housing Division represented by Scott Denny and Laurel Meyer Spooner.

STATEMENT OF THE CASE

The Petitioner is seeking to overturn her eviction.

ISSUES

- 1) Is the Petitioner entitled to continue to reside at N6435 Deer Path Dr, WI. 54155, when she breached her rental agreement by failing to pay rent?

FINDING OF FACTS

1. The Court has jurisdiction pursuant to Chapter 610, Eviction and Termination, of the Oneida Code of Laws.
2. Notice was provided to all those entitled to notice.
3. A warning letter of potential termination of the rental agreement due to non-payment of rent was sent on April 30, 2019.
4. On May 8, 2019 the Petitioner contacted the Respondent and promised to come in and sign a repayment agreement for the past due amount.
5. On May 9, 2019 a 30-day notice to cure or vacate was sent by certified mail and was also taped to the Petitioner's door.
6. By June 10, 2019 the Petitioner still had not signed the repayment agreement or made any other contact with the Respondent.

7. In accordance with the 30-day notice, the locks were changed on June 11, 2019 at the residence located at N6435 Deer Path Dr, WI. 54155.
8. On June 12, 2019 the Petitioner filed and the Court granted, a Temporary Restraining Order to stop the eviction.
9. A hearing was held on June 14, 2019 at 11:00 a.m.
10. The Respondent complied with all requirements under Title 6 O.C. Chapter 610 Eviction and Termination, Section 610.5-3.
11. The total amount of back due rent is \$605.00 for the partial month of March, months of April and May and partial month of June.

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.

610.5-3. *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.

ANALYSIS

The Respondent may evict a tenant for failure to pay any installment of rent. The Respondent must give the occupant notice requiring the tenant to pay rent or vacate on or before a date at least thirty (30) calendar days after giving such notice. If the occupant fails to pay the back due rent within the 30 days, the occupant may be evicted. Here, the Petitioner failed to pay installments of rent for the partial month of March, months of April and May and partial month of June. In response to the nonpayment of rent, the Respondent issued a 30-day notice to cure or vacate. The Respondent followed all notice requirements regarding the time, manner and form of notice.

The Petitioner did contact the Respondent by phone to set up a repayment agreement to avoid the eviction but did not go in to sign the agreement or make any other contact with the Respondent. Because the Respondent followed the requirements of the Eviction and Termination Law and the

Petitioner failed to follow through on her promise to go in and sign a repayment agreement, the Respondent may evict her.

During the hearing, the Petitioner offered to pay the debt of \$605.00 to remain in the unit. However, the offer to pay back due rent was not accepted by the Respondent. The Petitioner violated the rental agreement by failing to pay rent each month and therefore, may be evicted.

CONCLUSIONS OF LAW

1) The Petitioner is not entitled to continue to reside at N6435 Deer Path Dr, WI. 54155.

ORDER

- 1) The Temporary Restraining Order is lifted effective immediately.
- 2) The eviction is upheld.
- 3) The Petitioner is ordered to pay for the outstanding rent in the amount of \$605.00.

The parties have the right to appeal within thirty (30) calendar days after the date this order or judgment is signed.

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 an Order signed on June 17, 2019.