

Oneida Tribal Judicial System

On̄ayote ʔ a·ka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

Shirley Hill,
Petitioner,

Docket No: 11-TC-145

v.

Date: December 19, 2011

Oneida Business Committee
and
Human Resource Department
Respondents

DECISION

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers; Mary Adams, Sandra L. Skenadore, and Jean M. Webster, presiding.

I Background

This case arises out of the Respondents' decision to deny a request from Petitioner, Shirley Hill, to receive cash in exchange for 80 hours of personal and/or vacation time under the Oneida Tribe's Trade-Back-for-Cash program. Because we find the Respondents' denial proper under the program, we deny Ms. Hill's claim.

A. Factual background

Ms. Hill serves as the Chairwoman of the Oneida Gaming Commission. Oneida Gaming Commissioners are elected positions. On April 29, 2011, Ms. Hill made a request under the Tribe's Trade-Back-for-Cash program (TBC). Under TBC, employees who accrue over 280 hours of combined personal and/or vacation time are capped and cannot accrue hours beyond 280. Employees are eligible to trade in up to 80 hours per fiscal year in exchange for cash.

On July 26, 2011, Ms. Hill's request was denied. Ms. Hill was denied because she previously received cash for 80 hours of time in February of 2011. The TBC program only allows 80 hours per fiscal year to be traded in. Ms. Hill claims she is unable to schedule time off due to the demands of her position and staffing shortages at the Gaming Commission. Although she does not explicitly say so, we infer that Ms. Hill may lose some amount of personal and/or vacation time at the end of the year because her total may exceed 280 hours as she may not be able to take vacation and has been denied cash back.

B. Procedural background

On November 4, 2011, Petitioner, Shirley Hill, by way of her Advocate, Rena Brown, filed a petition against Respondents, OBC and HRD, claiming they improperly denied her request under the Trade-Back-for-Cash program.

On November 29, 2011, Respondents, through their Attorney, Patricia M. Stevens Garvey, submitted a Motion to Dismiss claiming Petitioner cannot establish a right to relief based on the facts and law presented pursuant to Rule 14(B) of the Rules of Civil Procedure.

On December 13, 2011 a Pre-trial hearing was held to decide if Petitioner's claim is ripe for trial and if so, to narrow down the issues. In addition, the Court needed to decide on Respondents' motion to dismiss.

II Analysis

Petitioner's arguments

Petitioner submitted a request for the Trade-Back-for-Cash program on April 29, 2011 and was denied by HRD. Petitioner contends since she is an elected official she is not bound by the Oneida Personnel Policies and Procedures and therefore, HRD does not have the authority to deny her request.

Respondent's arguments

Respondent asserts the issue is not whether Petitioner is an employee or not, rather the issue is whether the rules and terms of the Trade-Back-for-Cash program apply to Petitioner. Respondent claims Petitioner applied for and received her Trade-Back-for-Cash request for 80 hours on February 5, 2011, which was for FY 2011. Respondent holds Petitioner's April 29,

2011 denial was based on the Trade-Back-for-Cash Policy and Resolution 09-08-10-C §2(b), which limits employees to 80 hours of trade per fiscal year. Respondent asserts Petitioner submitted her request again on October 1, 2011 and received her Trade-Back-for-Cash request for 80 hours for FY 2012. Respondent contends according to the law, Petitioner has failed to show that she is entitled to relief in this matter and the dismissal is the proper remedy.

Jurisdiction

Ms. Hill appealed the denial of her trade back claim to her supervisor who affirmed. Ms. Hill then filed an appeal with the Oneida Personnel Commission. However, she withdrew that action upon her view that as an elected official, the Oneida Personnel Commission did not have jurisdiction over her. She then filed a document entitled "Notice of Appeal" in the Trial Court of the Oneida Tribal Judicial System. Respondents do not contest our jurisdiction. We find we have jurisdiction under the addendum to Resolution 8-19-91-A, the General Tribal Council act establishing this judicial body. Specifically, Sec. I.C. states that we have jurisdiction "*to resolve actions that are subject to ordinance or rules that have no specified hearing forum within the Oneida Tribe.*"

Court's findings

The Court is not persuaded by Petitioner's arguments. Petitioner filed for an employee benefit "Trade-Back-for-Cash", but does not want to be bound by its rules and requirements. The TBC policy does not state a difference between elected officials and employees. Ms. Hill has received the benefits of the policy by receiving cash for 80 hours in February and another 80 hours in October. The issue is not whether Ms. Hill, as an elected official, is exempt from employee benefits, she does receive vacation and personal time in accordance with the Blue Book and she is eligible for the TBC benefit. Ms. Hill offers no valid reason why she should receive unlimited trade backs. Her status as an elected official does not entitle her to a greater benefit under the TBC program. For this reason, the Court denies Ms. Hill's claim.

III Decision

Petitioner's claim is denied.