

Oneida Tribal Judicial System

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TRIAL COURT

Kahnyatahawise Cornelius,
Petitioner

Docket #: 12-TC-112

v.

Date: July 31, 2012

Dale Wheelock,
Oneida Housing Authority
Respondent

DECISION

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

History

This is a housing eviction claim.

Issue

Is the Petitioner in violation of the rental agreement signed with the Oneida Housing Authority on April 29, 2010 causing the Petitioner to be evicted from the home on at 1222 Chief Hill Drive, Green Bay, Wisconsin 54313.

Analysis

Findings of Fact

April 29, 2010 Petitioner entered into a Rental Agreement with the Oneida Housing Authority (OHA).

January 6, 2012 and June 4, 2012 Respondent sent OHA Delinquent notices to Petitioner.

January 25, 2012 and May 17, 2012 Respondent sent notices to the Petitioner about mandatory budgeting classes.

February 8, 2012 Respondent sent a letter to Petitioner notifying she had five (5) days to cure the amount owed to OHA.

April 2, 2012 Respondent sent an email requesting Petitioner to sign a payroll deduction, but no response.

June 4, 2012 Respondent sent Final Delinquent notice to Petitioner.

July 9, 2012 Respondent sent a letter to the Petitioner giving a formal Notice of Termination to vacate the premises on or before July 24, 2012 due to non-payment of rent. Respondent stated Petitioner has violated the OHA Rental Agreement, Section D.1. Respondent also noted Petitioner is in violation of the rental agreement for non-payment of utility bills. The letter informed the Petitioner she had 14 days to vacate, if she wished to appeal the decision she must state in writing within 10 days and file the appeal at the OHA by July 23, 2012 by 4:30 p.m., and appear in person before the Executive Director on July 24, 2012 at 11:30 a.m.

July 20, 2012 Petitioner filed a written appeal to the Respondent requesting the decision of Resident Services be overturned.

July 24, 2012 Petitioner received notice to voluntarily move out by 4:30 p.m. for failure to appear at the hearing scheduled on July 24, 2012 at 11:30 a.m. at the OHA office. Notice was given to Petitioner they have a right to appeal the decision at the Oneida Appeals Commission and get a Stay of Eviction.

July 24, 2012 Petitioner filed a Temporary Restraining Order requesting a stay on the eviction stating she was never contacted about the appointment for July 24, 2012 at 11:30 a.m.

July 24, 2012, Lead Judicial Officer filed a Stay of Proceeding to Enforce Judgment to allow time to schedule a deliberation. The court granted a stay on the voluntarily move out and stay of eviction.

July 25, 2012 a deliberation was held and the court granted the Petitioner's TRO request and a court date was scheduled for July 30, 2012 at 9:00 a.m.

Conclusions of Law

At the July 30, 2012 hearing, based upon testimony by both parties and review of the July 9, 2012 letter that was sent to the Petitioner, a breach of contract has occurred for non-payment of rent and utilities. The letter of July 9, 2012 clearly states how the Respondent's tried on numerous occasions to work with the Petitioner to cure the past due rent payments, identified the process to appeal the termination and the date and time the hearing would be held if the Petitioner appealed the termination. Respondent also addressed the outstanding utility bill, namely the Green Bay Water bill. Tenants who fall behind with their water bill can cause a "lien hold" on the OHA property. Respondent is requesting the Petitioner to have this water bill paid in full by August 17, 2012.

During testimony Petitioner stated she did not receive notice of the July 24, 2012 hearing. Upon reviewing the letter dated July 9, 2012, document submitted by the Respondent, the letter did identify all the appropriate information to the Petitioner, however, the court felt the information was not clearly presented in the current format. The court is recommending the form letter used by the Respondent be reviewed so when notices such as evictions are being sent to a tenant, the tenant know precisely what the steps are should the tenant choose to appeal the decision, when the hearing is held, etc.

The court also addressed providing notice of legal representation in a timely manner. Providing as much notice as possible will allow the other party the opportunity to seek representation if they should choose.

Decision

1. The Court affirms the Respondent/OHA decision to uphold the eviction of the Petitioner if past due rent is not paid in "full" by August 3, 2012 by 12:00 noon. Amount due by Petitioner is \$1,030.00.
 - If Petitioner is receiving assistance from the Oneida Center for Self-Sufficiency, Petitioner shall provide the Respondent/OHA with a copy of the letter that identifies the dollar amount of assistance the Petitioner will receive.
 - If Petitioner receives assistance, but not for the full amount of the past due rent, Petitioner is responsible for paying the difference by August 3, 2012 by 12:00 noon to the Respondent/OHA.
 - If Petitioner does not pay the outstanding debt in full by August 3, 2012 by 12:00 noon, Petitioner shall vacate the home located at 1222 Chief Hill Drive, Green Bay, WI 54313 by 2:00 p.m. on this date.
2. Petitioner shall pay the outstanding Green Bay Water bill by August 17, 2012.