

Oneida Tribal Judicial System

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TRIAL COURT

**Christopher Danforth Sr.,
Petitioner**

v.

Docket No. 13-TC-027

**Scott Denny,
Oneida Housing Authority,
Respondent**

Date: March 27, 2013

ORDER

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Jean M. Webster, and Leland Wigg-Ninham, presiding.

I Background

This case involves a request for a Temporary Restraining Order against the Respondent, Oneida Housing Authority. Petitioner currently resides at W329 Cornelius Circle, Oneida. Petitioners claim they were issued an eviction notice on March 19, 2013 to vacate the premises by March 21, 2013 at 11:00 a.m. due to a Stipulation within docket 08-TC-074 and maintaining compliance with NAHASDA'S purpose of providing healthy and safe housing neighborhoods.

The Court found it was appropriate to issue a Temporary Restraining Order until Petitioner is given his due process with a hearing to prove his eviction should not be upheld. A hearing was held on March 25, 2013.

II Analysis

At the March 25th hearing, Petitioner appeared without counsel and Respondent appeared with counsel.

Petitioner claims he has been drug free since his agreement in 2008. Petitioner argues the substance found in his home was not his, once he found it he was waiting to call Oneida Police Department (OPD) to dispose it. However, prior to contacting OPD a police officer approached him with a search warrant and found the substance within his home. Petitioner asserts he was not legally charged and this incident should not be held against him. Petitioner claims he has three children plus a teenager living in his home, plus four children every other weekend from a previous relationship. Petitioner requests if the eviction is granted that he be given two to four months to secure another residence.

Respondents claim Petitioner signed the Crime-Free Addendum to the Lease in early 2008, which detailed what is meant by criminal activity and the tenant's responsibility/expectations to remain in the unit. Respondents argue this is not the first time Petitioner was faced with eviction. Respondents assert Petitioner signed a Stipulation in late 2008 that stated "it is not necessary for a conviction of a drug offense to result in a violation of the One-Strike and You're-Out Drug Policy, but rather a violation may be determined on a preponderance of the evidence." Respondents point out that the preponderance of the evidence means a drug conviction is not necessary, but only that drugs were found on the premises. Petitioner concedes illegal drugs were found on Petitioner's premises.

Court's findings of fact:

- On March 3, 2008 Petitioner signed the Mutual Help and Occupancy Agreement.
- On August 7, 2008 Petitioner signed the Stipulation in docket number 08-TC-074.
- On February 11, 2013 Petitioner was cited with possession of THC and possession of drug paraphernalia.
- On March 6, 2013 Scott Denny, Oneida Housing Manager wrote his report and decision to uphold his eviction.
- On March 19, 2013 Petitioner appealed the eviction.
- On March 25, 2013 a hearing was held.

Conclusion of law:

Petitioner admitted that THC and drug paraphernalia was found at his residence. According to

the Mutual Help and Occupancy Agreement and the Stipulation, Respondents have the right to evict Petitioner for violation of the signed contracts. Petitioner failed to show he was not in violation of the Stipulation or the Mutual Help and Occupancy Agreement.

III Decision

Based on the above evidence the Court has no other alternative but to uphold the eviction. Petitioner shall have until May 3, 2013 at 11:00 a.m. to vacate the premises. Respondent shall be responsible for home repairs; once the home inspection is completed Respondents shall refund any money due.

It is so ordered.