

Oneida Tribal Judicial System

OnΛyote ʔ a-ka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

Rita Thornton,
Petitioner

Docket #: 13-TC-120

v.

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 Kathy Hughes presiding.

This matter came for a hearing on July 9, 2013.

Appearing in person: Petitioner, Rita L. Thornton and Respondents: Scott Denny, Interim Housing Director; Laurel Meyer Spooner; Attorney, Rebecca Webster and Paralegal, Heidi Wennesheimer

Petitioner appeared without counsel.

History

This is a housing eviction claim. Petitioner filed a complaint with Motion for Stay of Enforcement of Oneida Housing Authority decision and a Motion for Peacemaking.

Issue

Did the tenant violate the Oneida Housing Authority (OHA) Rental Agreement causing the Respondent to reclaim the unit located at 2869 Bennett Street, Oneida, WI?

Analysis
Findings of Fact

On July 9, 2013 a hearing was held to address the Petitioner's Motion for Stay of Enforcement of Oneida Housing Authority (OHA) decision and direct that the Petitioner's family be allowed to live at the unit at 2869 Bennett Street, Oneida, WI until the peacemaking and/or appellate process was completed. Both parties had an opportunity to address the Trial Court.

Petitioner –

1. Petitioner claims she did not abandon the unit at 2869 Bennett Street, Oneida, WI. Petitioner claims she was staying elsewhere until she was able to get some financial help to help restore the electricity.
2. Petitioner claims she does not have enough time to reclaim her personal belongings, as OHA stated she can claim her items between the hours of 8:00 a.m. and 3:00 p.m. Petitioner stated she works every day from 6:30 a.m. to 2:30 p.m. and this is not enough time.
3. Petitioner claims there have been items removed from the unit and is requesting the Respondent return these items to Petitioner.
 - Respondent claims they have not removed any items from the home or property.
4. Petitioner is requesting the court that if the abandonment/eviction is upheld that the Respondent cannot disclose this information.

Respondent -

On September 28, 2009 Petitioner entered into a Rental Agreement with the Respondent, Oneida Housing Authority (OHA).

On May 29, 2013, Respondent was scheduled to work on the Annual Inspection deficiencies at 2869 Bennett Street, Oneida, WI. The inspection resulted in an awareness of no electricity. OHA contacted WI Public Service to confirm they had shut off the utility service. WPS confirmed service was cut off on May 23, 2013. OHA attempted to contact the Petitioner to no avail. At 2:00 p.m. OHA conducted a welfare check in accordance with the OHA Rental Agreement. OHA Resident Services staff and OHA Housing Operation Manager/Interim Director met to discuss the situation and as a result of a welfare check, Respondents concluded to treat this situation as abandonment and would post, reclaim, and change the locks on May 30, 2013.

On May 30, 2013, OHA proceed to post, reclaim, and change the locks at 2869 Bennett Street, however, when maintenance staff arrived Petitioner was at the unit to reclaim some personal items. Petitioner and Respondent met to discuss the situation.

- Petitioner claimed she was not living in the unit due to no utility service (electricity), was attempting to get assistance with Oneida Center for Self-

Sufficiency and Brown County, and stated she was staying elsewhere. Petitioner further claimed she had no financial means (no income) to remedy the utility or rent problem, and requested she have an opportunity to get her personal belongings.

- The Court makes note in the Notice of Appeal dated June 27, 2013 filed by the Petitioner it states she works from 6:30 a.m. to 2:30 p.m. and Respondent's Exhibit #1 identifies the Petitioner was terminated from her job on April 19, 2013.

On June 3, 2013, Petitioner met with OHA to access the unit to remove some personal belongings. OHA explained to Petitioner she had fourteen (14) days to remove her property.

On June 5, 2013, OHA provide Petitioner with a written notice and defined fourteen (14) day as working days. This resulted in more time for the Petitioner to remove all her personal belongings. Petitioner now had until June 27, 2013 until 3:00 p.m. to remove all her personal belongings.

Between the dates of June 10, 2013 and July 8, 2013, Petitioner had been back to the unit six times to reclaim her personal belongings.

Conclusions of Law

The court's decision is based upon testimony provided by the Petitioner and Respondent, and review of the Rental Agreement signed by the Petitioner on September 28, 2009.

- According to the Rental Agreement, Section VII. Inspections (D) parties are aware there is an annual inspection conducted at least once per year and notice is provided to the tenant. If tenant is not home at the annual inspection a pass key is used to enter the unit.
- According to the Rental Agreement, Section VII. Inspections (E) a "welfare check" is conducted without notice if there is reason to believe the well-being of a resident may be in jeopardy. Jeopardy can be a disconnection of utilities and abandonment of the unit.
- According to the Rental Agreement, Section VII. Inspection (I) abandonment is defined as desertion or giving up occupancy without notifying the OHA and a welfare check is conducted. Any personal property left behind shall be disposed at the curb unless the Renter contacts the maintenance supervisor within five (5) days to make arrangement.
- According to the Rental Agreement, Section VII. Inspection (J) OHA is not responsible for any lost, damaged or stolen personal possessions.

Based upon the testimony and evidence, the Respondent's decision of abandonment is upheld. Petitioner shall have until July 15, 2013 to remove all personal belongings.

Petitioner requested the court to order the OHA not disclose to entities she was evicted from the OHA. The court was not able to find any law within the OHA Rental Agreement or within the Rules of Civil Procedure that would allow the court to make such a ruling. The Petitioner's request shall be at the discretion of the Respondents.

Petitioner filed a motion for parties to enter peacemaking. The court finds this motion moot, as the decision of abandonment is upheld.

The Court notes for the record when the Petitioner filed her Notice of Appeal, Petitioner asserted a number of reasons as her legal grounds for the appeal. All the items listed as her grounds for appeal would have been correct if the Appellate Court was to hear the case. Petitioner did receive notice from the Respondent they had a right to appeal their decision at the Oneida Appeals Commission and the appeal would be with the Trial Court not the Appellate Court.


Decision

The Court affirms the Respondent/OHA decision to uphold the abandonment/eviction.

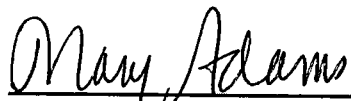
- Petitioner shall have until July 15, 2013 to remove all personal belongings.
- Petitioner shall be responsible for all utilities up until the date of July 15, 2013.

IT IS SO ORDERED

By the authority vested in the Oneida Tribal Judicial System pursuant to Resolution 8-19-91A of the General Tribal Council a hearing was held on the 9th day of July and decision rendered on August 8, 2013 in the matter of Rita L. Thornton v Oneida Housing Authority. Docket Number 13-TC-120.



Jean M. Webster, Lead Judicial Officer



Mary Adams, Judicial Officer

UNAVAILABLE FOR SIGNATURE

Kathy Hughes, Judicial Officer