

Oneida Tribal Judicial System

Onλyote ʔ a-ka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

**Heather M. Smith,
Petitioner**

Docket No: 13-TC-128

v.

**Oneida Housing Authority,
Respondent**

ORDER TO DISMISS

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

This matter came for a hearing on the 1st day of October 2013.

Appearing in person: Respondent, Attorney Rebecca Webster; Oneida Law Senior Paralegal, Heidi Wennesheimer; Laurel Meyer-Spooner, Oneida Housing Authority; and Julie Cornelius, Oneida Housing Authority.

Not appearing: Petitioner, Heather M. Smith.

I Background

On September 26, 2013, Petitioner, Heather Smith, filed a request to stay of eviction. This case involves a request for a Temporary Restraining Order against the Respondent, Oneida Housing Authority. Petitioner currently resides at 1520 Dancing Dunes, Green Bay, WI. Petitioner claims she was issued a decision to vacate the premises by September 30, 2013 by 11:00 a.m. The court granted the Petitioner's Temporary Restraining Order and a hearing was scheduled for October 1, 2013. Parties received notice of the hearing via first class mail.

Findings of Fact –

On October 1, 2013 a hearing was held. Petitioner failed to appear; therefore the Petitioner is found in default.

Respondent motioned the Court to: (1) lift the temporary restraining order and proceed with the eviction; (2) Petitioner shall vacate the premises on/or before October 15, 2013 by 11:00 a.m. at which time the locks will be changed; and (3) Petitioner shall not commit waste upon the home. Respondent noticed the court upon completion of the housing inspection; they will be filing a Motion for Enforcement and Deficiency Judgment for outstanding rental charges, utilities, and repair charges due to neglect and/or waste.

Conclusion

According to the Rules of Civil Procedure, Rule 16 (C) it states, "*Petitioner: When a party who has filed a claim fails to appear, plead, or prosecute said claim as provided in these rules or elsewhere, a dismissal may be granted by the trial court, dismissing the claim.*"

Petitioner failed to appear at the October 1, 2013; therefore the case is dismissed.

The court grants the Respondents motion to lift the temporary restraining order; for Petitioner to vacate the premises on/or before October 15, 2013, for the Petitioner to vacate the premises on/or before October 15, 2013, and Petitioner shall not commit waste upon the home.

IV Decision

The court finds the Petitioner in default and the case is dismissed.

1. Petitioner shall vacate the premises located at 1520 Dancing Dunes, Green Bay, WI by **Tuesday, October 15, 2013 by 11:00 a.m. at which time the locks shall be changed.**
 - Any items remaining in the home after this date the Petitioner shall contact the Oneida Housing Authority to make arrangements to access the home.
2. Petitioner shall not commit waste upon the home.