

Oneida Tribal Judicial System

Onʌyote ʔ a-ka Tsiʔ Shakotiyaʔ Tolé hte

**ONEIDA TRIBAL JUDICIAL SYSTEM
TRIAL COURT**

**Timothy W. Danforth,
Petitioner**

Docket No: 14-TC-074

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 Janice L. McLester, presiding.

Appearing in person on May 13, 2014: Petitioner: Timothy W. Danforth and on behalf of Respondent: Scott Denny, OHA Housing Operations Manager and Laurel Meyer-Spooner.

Both parties appeared without counsel.

I Background

On May 8, 2014, Petitioner, Timothy W. Danforth, filed a request for a Temporary Restraining Order against the Respondent, Oneida Housing Authority. Mr. Danforth sought to prevent the Respondent from evicting him. Petitioner currently resides at N6492 Deerpath Drive, Oneida, WI. Petitioner claims he was issued a decision to vacate the premises by May 9, 2014 by 11:00 a.m.

On May 8, 2014 the Court held a deliberation. The Court found it was appropriate to issue the Temporary Restraining Order as the Petitioner had a right to appeal the eviction and to present

his case in court prior to the eviction. A hearing was scheduled for May 13, 2014 to determine whether to convert the Temporary Restraining Order into a permanent injunction.

II Issue

Did the Petitioner, Timothy W. Danforth violate the Oneida Housing Authority (OHA) Rental Agreement causing the Respondent, Oneida Housing Authority to reclaim the unit located at N6492 Deerpath Drive, Oneida, WI?

III Findings of Fact

On May 13, 2014 a hearing was held and both the Petitioner and Respondent had an opportunity to address the court.

Petitioner:

1. Petitioner, Timothy W. Danforth, is requesting he be allowed to remain in his home until after his appeal of the felony conviction in Outagamie County is decided. Petitioner claimed he was unaware that by pleading no contest, he was pleading no contest to a felony charge. Petitioner understood the plea was for a misdemeanor charge.
 - Petitioner testified he is currently on probation for 18 months.
 - Petitioner testified one of his conditions while on probation is he cannot move without the approval from his probation officer.
2. Petitioner testified he has 50/50 placement of his three minor children. Petitioner further claimed one of his children has been diagnosed with ADHD. Since receiving a home within Oneida Housing and having a stable home environment, his daughter's grades and behavior have improved in school and at home.
3. Petitioner testified he is working for WPI Temp Services and gets paid weekly. Petitioner also stated he would work with Oneida Housing Authority (OHA) to clear up rental arrears and all utility bills.

Respondent: Scott Denny testified on behalf of the Respondent.

1. On October 24, 2013, Petitioner signed a Rental Agreement with the Respondent, Oneida Housing Authority. Petitioner also signed on this date the "One Strike, You're Out" Crime-Free Addendum to Lease and the Drug Free Household Statement.
2. On April 9, 2014, the Respondent, Oneida Housing Authority issued a Five Day Termination Notice to the Petitioner for violating the One Strike You're Out Crime-Free Addendum to Lease and OHA's Admissions & Occupancy Policy. Termination was based on the felony charge the Petitioner received. The letter also provided the Petitioner with notice if he did not agree he could file a written appeal by April 16, 2014 and attend a hearing with the OHA on April 17, 2014.
 - On October 14, 2013, Petitioner was charged with Disorderly Conduct and the charge was listed as a Misdemeanor.
 - On April 1, 2014, a Judgment of Conviction was entered as Petitioner pleaded no contest. Petitioner received a Disorderly Conduct-Domestic Abuse Repeater enhancement. The charge resulted in the Petitioner receiving a felony charge and conviction.
 - Petitioner testified he has filed for an appeal in the Outagamie County Circuit Court. Petitioner further testified he received a letter from the Outagamie County Circuit Court stating they have received the request for an appeal. No date was set for the appeal.
 - Respondent noted for the record Petitioner's past history of disorderly conduct and battery convictions.
3. On April 24, 2014, Respondent sent a notice to the Petitioner upholding the eviction and Petitioner was ordered to vacate the premises by 11:00 a.m. on May 9, 2014, at which time the locks would be changed. Respondent further noticed the Petitioner if he did not agree with OHA decision, Petitioner could file an appeal at the Oneida Tribal Judicial System.

4. Respondent testified the Petitioner has rental arrears and is delinquent in paying Oneida Utilities, WE Energies and Wisconsin Public Service. Respondent further stated that disconnection of such services as heat, electricity, or water is cause for terminating the rental agreement.
 - Respondent noted that contingent upon this hearing the water is slated to be shut off. Respondent further noted the Petitioner had made payment arrangements with Oneida Utilities, but is currently in default.

As the Court recessed for a deliberation, the Court informed the parties they may contact Oneida Utilities as to whether the water at the housing unit located at N6492 Deerpath Drive, Oneida, WI will be shut off and to discuss the status of the Petitioner's current payment plan. If the party(s) meets with Oneida Utilities and an agreement is reached, then written documentation shall be brought back to the Court.

All documents presented during the hearing, including the Rental Agreement, are incorporated by reference into the Court's Findings of Facts.

IV Conclusions of Law

According to the Rental Agreement signed by the Petitioner, Timothy W. Danforth on October 24, 2013, IX. Project Regulations: I states, "*The "One Strike, You're Out" Crime-Free Provision. The purpose of this Provision is to provide decent and safe housing for OHA residents by maintaining OHA as a crime-free and drug-free environment. Any criminal activity.....*"

According to the Rental Agreement - IX Project Regulations: I (5) states, "*A Single Act of Criminal, Drug, or Illegal Activity shall be deemed a material and irreparable violation of this Agreement and shall be just cause to terminate tenancy. Proof of violation shall not require criminal conviction but shall be by a preponderance of the evidence.*"

According to the Rental Agreement – I. Terms and Conditions: E Utilities (2) states, “*Nonpayment and/or Disconnection of gas, electricity, and water shall be cause to terminate this Agreement.*”

After the Court recess, Petitioner, Timothy W. Danforth presented to the Court a memorandum from Oneida Utilities, dated May 13, 2014, stating there is an agreement to make regular payments for his debt with Oneida Utilities and service has been restored.

Timothy W. Danforth testified that when he pleaded no contest, he believed he was pleading no contest to the misdemeanor charge, not a felony charge. During the hearing the Petitioner never denied the October 14, 2013 charge of disorderly conduct nor did he deny his past history of disorderly conduct and battery convictions. Even though Mr. Danforth’s mistakenly misunderstood his no contest plea, the criminal legal proceeding is not sufficient cause to wipe away his violations of the Rental Agreement.

The Court finds the Petitioner, Timothy W. Danforth has violated the OHA Rental Agreement and the Court upholds the Oneida Housing Authority notice of eviction.

V Decision

The court upholds the Respondent, Oneida Housing Authority’s notice of eviction. Petitioner shall vacate the premises at N6462 Deerpath Drive, Oneida, WI by **Friday, June 13, 2014.**

Petitioner shall:

1. Not commit waste at the property of N6462 Deerpath Drive, Oneida, WI.
2. Continue to make the bi-weekly payments to Oneida Utilities until paid in full.
 - If Petitioner defaults on the agreement with Oneida Utilities during the next 30 days and the water gets turned off, Respondent shall notify the Petitioner and the eviction shall take effect immediately.
3. Petitioner is obligated to continue paying on the rental arrears and on the outstanding utility payments with WE Energies and Wisconsin Public Service until paid in full.