

Oneida Tribal Judicial System

Onayote ᵓ a-ka Tsiᵓ Shakotiyaᵓ Tolé hte

TRIAL COURT

**Sharon Cornelius,
Petitioner,**

Docket #: 10-TC-194

v.

Date: March 7, 2011

**Oneida HRD-Benefits and
Crawford & Company,
Respondent**

DECISION

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 Worker's Compensation claim by Petitioner Sharon Cornelius. Ms. Cornelius fell and injured herself while working at the Oneida Casino as a cashier. As a result of the fall, Ms. Cornelius missed August 26, 2010 to September 11, 2010 of work. Ms. Cornelius is diabetic. Ms. Cornelius alleges that the unique circumstances at work immediately preceding her fall, specifically a Code D where no breaks were allowed, were responsible for injuries. Respondents disagreed and denied coverage. We agree with Ms. Cornelius and find in her favor.

On September 22, 2010 Respondent denied Petitioner's claim, stating that Ms. Cornelius' injuries were not due to any unusual circumstances. The relevant section of Oneida's Workers' Compensation Law is Sec. 13.3-12. That section defines "Covered Injury/Accidents" as:

Mental or physical harm to an employee caused by accident or disease and arising out of and in the course of employment. Injury includes mental

harm or emotional stress or strain without physical trauma, which arises from exposure to conditions or circumstances beyond those common to occupational and/or non-occupational life and is predominantly work related, extraordinary and unusual.

On October 13, 2010 Petitioner, Sharon Cornelius, filed her petition appealing Respondents', Oneida HRD-Benefits and Crawford and Company, denial of coverage for her injury while at work. Petitioner is seeking coverage for her medical bills and loss of wages.

II Issue

Was the Code D and denial of a break by Ms. Cornelius' supervisor a condition or circumstance beyond those common to occupational and/or non-occupational life?

III Analysis

Petitioner's arguments

Petitioner claims she informed her supervisor that she, Petitioner, is diabetic. On August 25, 2010 Petitioner reported to work and was informed that the casino was operating under "Code D", which meant all systems were down due to a computer glitch. Petitioner asserts that when a "Code D" is called her co-workers follow a different work schedule, including "no breaks." Petitioner alleges she complained to supervisor, Rhonda Shampo, that she wasn't feeling well and that she didn't have a lunch break. Petitioner claims she was denied a lunch break and soon after she begin to feel warm and light headed. Petitioner contends at approximately 2:45 pm, she fainted and hit her head on a cabinet before falling to the ground and was taken to the hospital via ambulance.

Respondent's arguments

Respondent claims employees have a certain amount of responsibility for their health issues. Respondent points out that Petitioner's blood level was relatively high for diabetics (200+) in the ER's report. Respondent contends according to the ER report Ms. Cornelius' fainting was not due to her diabetes. Therefore, Respondent asserts the claim should be denied and Petitioner's appeal should be dismissed. Respondent asserts that

Oneida Worker's Compensation Law, Section 13.3-12, prevents coverage for Petitioner's claim.

Court's findings of fact

Petitioner is diabetic. Petitioner shared her health condition with her supervisor. Petitioner was at work when she suffered an injury. Petitioner's department was under a "Code D", which limited breaks to toilet facilities only. Her supervisor denied Petitioner's request for a break after she stated she was feeling light headed and dizzy. Petitioner then fell and suffered an injury to her head. The Initial Report from St. Vincent Hospital dated August 25, 2010 explained several reasons for causing someone to faint, including low blood sugar and dehydration.

Generally, employees have several breaks throughout the day to monitor their health needs. This particular day, the employee entered work during a "Code D" alert. A "Code D" happens when there's a malfunction to machines that pay out on casino tickets. The patrons are limited to the cashier booth for their pay out needs. Consequently, in order to meet the increased customer demand, all personnel are expected to adhere to the "Code D" criteria, which only allow minimal breaks.

Court's conclusions of law

This situation is unique; this employee was prevented from monitoring her health needs. Petitioner felt her symptoms worsening and finally fainted. The criteria for the "Code D" exposed Petitioner to those conditions or circumstances beyond those common to occupational life and is predominantly work related. Furthermore, we find it persuasive that Ms. Cornelius' supervisor knew she was diabetic and denied her the necessary break, even when Ms. Cornelius notified the supervisor she was beginning to feel dizzy and light headed.

We note this case is unique and has limited precedential value. Code Ds in general are not unique circumstances beyond those normally found on the job. However, the Code D combined with Ms. Cornelius' diabetes and denial of a break by the supervisor who knew

of Ms. Cornelius' condition, created a situation beyond normal occupational circumstances.

IV Decision

The Court grants Petitioner's requests of coverage for her medical bills and loss of wages provided they are consistent with the Workers' Compensation Ordinance.