

Oneida Tribal Judicial System

Onayote ʔ a-ka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

**Debra Danforth,
Petitioner**

Docket No: 10-TC-195

v.

Date: October 26, 2010

**Oneida Tribe of Indians of WI, et al,
Lloyd Powless, Assistant General Manager,
Deborah Thundercloud, General Manager,
Barbara Kolitsch, Interim Area Manager Human Resources
Oneida Business Committee,
Initiative One Consultant, Tracy Felmer, COO,
Initiative One Consultant, Dr. Fred Johnson, CEO,
Respondents**

Decision for Temporary Restraining Order

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Gerald Cornelius (Pro tempore), Robert Miller (Pro tempore), presiding.

I Background

This case involves a request for a Temporary Restraining Order against a possible employment termination.

Petitioner, Debra Danforth, Oneida Health Center Operation Manager, alleges her employer presented her with a Resignation and Severance Agreement to sign. Petitioner alleges this action violates the Tribe's policy on severance offers. Petitioner filed her motion claiming the Respondents violated her due process rights by not following the tribe's Personnel, Policies and Procedures for grievances. Petitioner requests employee protection and requests this Court to

issue an immediate cease and desist order until a full investigation can be conducted.

Analysis

The Trial Court division does not have jurisdiction to review this case. This is an employment matter. The Personnel Commission has been established as the appropriate hearing body to review such matters. Petitioner claims her due process rights have been violated by not providing her the opportunity or given any information or knowledge of her alleged misconduct.

Petitioner is requesting employee protection. The Personnel Commission has the authority to issue employee protection when an employee meets the standards set forth in the Employee Protection Policy, see *07-AC-025 Vandehei v Webster, 12/11/2007*.

Petitioner is requesting a temporary restraining order against Respondents to cease and desist her termination until a full investigation can be conducted. Petitioner's case fails to meet the standard for a temporary restraining order in accordance with Rules of Civil Procedure, Rule 31(B). Petitioner's facts must be specific and show that if a temporary restraining order is not given it will then result in immediate and irreparable harm, loss or damage will result. This Court has never intervened in an employment case in these circumstances. If Petitioner is terminated, there is a well-established process for adjudicating the validity and legality of the employer's action. At this point, Petitioner's case can not be accepted for review, see *04-TC-097 Metoxen v Oneida Health Center, 01-11-2005*.

Respondent's motion to dismiss the Oneida Business Committee as a party is moot, since the Court is dismissing the case.

II Decision

Petitioner's case is dismissed.

It is so ordered.