

Oneida Appeals Commission

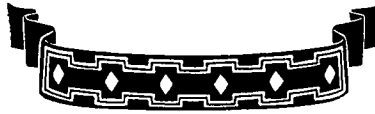
Onlayote 7 aka Tsi7 Shakotiya7 Tolé hte

Phone: 920-497-5800

Fax: 920-497-5805

Post Office Box 19

Oneida, WI 54155



Trial Court

Oneida Tribe,
Accounting Department,
Petitioner

Docket No. 03-TC-160

vs.

Eugene Cornelius,
Respondent

Date: July 23, 2003

Court Order

This case has come before the Oneida Appeals Commission Trial Court. Judicial Officers Mary Adams, Marjorie Stevens, and Winnifred Thomas, presiding.

I Background

On October 5, 1997 the Petitioner, Oneida Plumbing Department billed the Respondent, Eugene Cornelius, for repairs and cleaning out his sewer line at his residence. The Respondent claims the Petitioner did not repair or clean out his sewer line. The Respondent claims the Petitioner installed a well pump, which was paid for by Indian Health Services. Approximately a week after the installation of the well pump he experienced plumbing problems. The Respondent requested service from the Petitioner. When the Petitioner arrived the Respondent noticed there was a three-inch pipe inside a four-inch pipe that obstructed the flow of his sewer system which caused the system to back up into his home. The Respondent claims that he removed the pipe and that the Petitioner charged him for services he did not receive. The Petitioner is charging the Respondent \$76.00 for cleaning and repairing the sewer line.

The Respondent agrees that the Petitioner installed a well pump in 1999. The Respondent

applied for emergency funds through the Indian Health Services and was approved for \$500.00, which left a remaining balance of \$2.29. The Respondent is disputing the \$76.00 charge for cleaning and repairing his sewer line claimed by the Petitioner.

II Analysis

According to the May 12, 2003 memo from the Department of Public Works, Eric Denny, Plumber Helper and Bay Waelchi, Journeyman Plumber states;

“...we found a three inch pipe sticking out of his lawn loosely, and when we pulled the pipe out the sewer started to flow. Ray and myself repaired the clean out and that was that. Ray and I have never done any work prior to the date listed above.”

The Respondent claims his sewage lines did not need cleaning, nor were his pipes cleaned that day.

According to the memo dated May 12, 2003, it is not clear as to what cleaning services were performed by the Petitioner. Nor is it clear if someone else from the Plumbing Department provided service prior to the work listed. The Respondent said he cleaned the sewer mess that was left in his bathroom and pulling a pipe out of another pipe does not constitute a cleaning service. Furthermore, the Respondent claims he was the person to pull out the pipe and even if he was not the person to pull out the pipe, the charge of \$76.00 is beyond the service rendered. Burden of proof lies with the Petitioner. It is the Petitioner's obligation to establish facts or evidence to the court that the Respondent owes \$76.00 for services rendered. What type of cleaning did the Petitioner perform? What are the costs for such cleaning? What is the cost for removing a pipe? The Petitioner failed to provide sufficient evidence, as to what services were rendered that justifies the Respondent's debt.

III Decision

The Respondent is responsible for \$2.29, to be payable to the Oneida Tribe for the remaining balance for the installation of the well pump. The court dismisses the \$76.00 claim against the Respondent.