

Oneida Appeals Commission

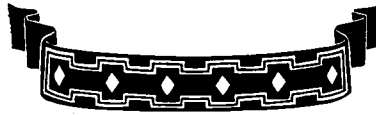
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Trial Court

Lester W. Harms,

Petitioner

Docket No. 03-TC-330

v.

Oneida MIS Department,

Oneida General Manager,

Oneida Human Resources Department,

Respondents

Date: August 20, 2003

Motion for Injunction and Original Complaint

This case has come before the Oneida Appeals Commission Appellate Court. Judicial Officers Mary Adams, Janice Mc Lester, and Wanda Webster, presiding.

I Background

On July 11, 2002 the Petitioner, Lester Harms, applied for the Assistant MIS Manager Trainee position for which he has allegedly received no response. The Petitioner was laid off from the MIS department on December 31, 2002. The Petitioner claims the Respondent, Oneida MIS department denied his opportunity to secure employment through grant funds. Included in the Petitioner's request is the directive from the Oneida General Tribal Council meeting July 30, 1990:

“Management Plan: Discussion, suggestions and recommendations. Plan should train individuals to take over top management positions.” Motion by Wayne Skenandore and

seconded.

The Petitioner claims it is the responsibility of the General Manager to ensure that the Oneida General Tribal Council directives are implemented. The Petitioner further claims it is the responsibility of the Human Resources Department to address applicants as to the status of a posted position in a timely manner.

II Analysis

The Petitioner requests an Injunction to cease the posting of the Assistant MIS Manager Trainee position. The court denies the Injunction to prevent posting the position because the Petitioner failed to show how posting a position will cause him harm. The Petitioner has not established the right to relief. Posting the position of Assistant MIS Manager gives the Petitioner and other applicants the opportunity to apply. Once the Petitioner applies for the position and can provide evidence for wrong doing with his application, then the Petitioner has the opportunity to file for a hearing.

The Petitioner's request for an Injunction to place Dave Cluckey on unpaid administrative leave to assure that he does not coerce, intimidate, or influence while this case is being processed is denied. The Petitioner has not established a right to have this court interfere with Mr. Cluckey's job.

III Decision

While the Petitioner has not established a right to injunctive relief the complaint relates to compliance with a General Tribal Council directive and Oneida Law. This case will proceed as a contested case. The Respondents shall submit an answer supporting their position on the issues cited within the Petitioner's brief.