

Oneida Appeals Commission

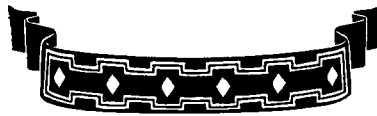
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Trial Court

Nancy Skenandore,
Petitioner

v.

Docket No. 03-TC-333

Date: September 19, 2003

Oneida Tribe - Accounting,
Respondent

Default Decision

This case has come before the Oneida Appeals Commission Trial Court. Judicial Officers Leland Wigg-Ninham, Mary Adams, Stanley R. Webster, presiding.

I Background

The petitioner filed for injunctive relief, seeking a stay against a pending per capita attachment filed by the respondent. The petitioner asserts that she did not receive notice of the hearing in which her debt to the Tribe was established. The certified mail was sent to her former address and accepted by the new resident, but was never forwarded to her. As a result, a default judgement was entered against her in October of 2002. A temporary restraining order was granted and the matter scheduled for a hearing. The respondent failed to appear.

II Issues

Is a default judgement appropriate?

III Analysis

A default judgement may be entered when a respondent fails to appear and the petitioner has

established a right to relief based upon the pleadings filed.¹ The petitioner established that her unpaid debt for purchases of chicken made from Tsyunhenkwa is the only outstanding debt owed to the Tribe. This debt amounts to \$40.00.

The statement submitted into evidence included school fees for the lunch program for the petitioner's children. However, the petitioner submitted paperwork and evidence to show that her children qualified for the free lunch program, making this statement erroneous.

IV Decision

The original judgement against the petitioner is vacated. The established debt owed to the Tribe is \$40.00, which the petitioner will pay on her own by October 3, 2003.

The injunction against the respondent is lifted and the per capita attachment action against the petitioner is hereby dismissed.

Judgement is entered in favor of the petitioner.

¹ R.C.P. 16 (B) Respondent: When a party against whom a judgment for relief is sought has failed to appear, plead or otherwise defend as required in these rules or elsewhere, a default judgment may be granted by the trial court upon the receipt of whatever evidence is deemed necessary to establish the claim.