

Oneida Appeals Commission

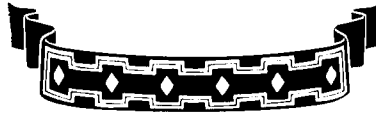
Onayote ʔ aka Tsiʔ Shakotiyaʔ Tolé hte

Phone: 920-497-5800

Fax: 920-497-5805

Post Office Box 19

Oneida, WI 54155



Trial Court

Wendy Skenandore,

Petitioner

Docket No. 04-TC-094

vs.

Oneida Human Resource Department Benefits,

Crawford & Company

Respondents

Date: January 21, 2005

Final Decision

This case has come before the Oneida Appeals Commission Trial Court, Judicial Officers Leland Wigg-Ninham, Lois Powless, and Winnifred L. Thomas presiding.

I Background

This is a Worker's Compensation case. The Petitioner has filed a complaint against the Respondents, Oneida Tribe of Indians Human Resource Department Benefits/Crawford & Company. March 30, 2002, the Petitioner stumbled in her work area causing pain to same left knee. March 31, 2002, the Petitioner tripped again making the pain worse. Petitioner was seen at St. Mary's Emergency on March 31, 2002 and released to work on that same date. She filed an incident report claiming she injured her left knee at work. This was considered a valid claim and medical claims were paid to the Petitioner. December 31, 2002, the Petitioner filed a claim with Crawford claiming that she had a sharp pain in left knee, that claim was denied on February 25, 2003. October 13, 2004, she filed another incident report claiming injury to the same left

knee. On October 25, 2004, the Petitioner's claim was denied.

The Petitioner is requesting medical expenses and back pay from date of injury be paid as a result of an alleged injury on the job. A hearing was scheduled for January 13, 2005, at 2:00 P.M. at the Oneida Appeals Commission.

II Issues

Is the Petitioner's injury work related?

III Analysis

Is the Petitioner's injury work related?

The Petitioner contends that the injury she sustained on October 13, 2004 is work related and therefore she should be entitled to back pay and all other expenses associated with her injury. Petitioner further contends that the injury she received on October 13, 2004, is the result of the injury she received on March 30, 2002 while employed as a dealer for the Oneida Nation Casino. The Respondent claims that the injury is not work related and is requesting the Oneida Appeals Commission to deny the Petitioner's request. In the Oneida Worker's Compensation Law 13.3-9, Burden and Standard of Proof:

Except where explicitly stated otherwise, the burden of proof is on the party advancing a particular claim or defense, and the standard of proof is by a preponderance or greater weight of evidence.

The Petitioner clearly established through testimony and evidence that the injury she received on March 30, 2002, was directly related to the injury on October 13, 2004 which resulted in surgery to correct her condition. The Respondent failed to provide evidence to this court that the injury which the Petitioner suffered on October 13, 2004 was not related to the injury she sustained on March 30, 2002 and

IV Decision

It is the decision of this court to overrule the decision of the Respondents. This court orders the Respondent, Crawford Insurance, to pay the Petitioner the wages she would have been paid to her as a Dealer from the time of her injury according to the Oneida Workers Compensation Law Chapter 13.6-6 Employee's Average Wage and all other pending medical expenses associated with this injury. Judgement for the Petitioner.