

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Lynn M. King,
PETITIONER,

v.

CASE NO: 20-TC-013

Oneida Comprehensive Housing Division,
RESPONDENT

ORDER

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

Appearing by Phone: Petitioner, Lynn M. King. Attorney Krystal John, representing Respondent.

Appearing in Person: Scott Denny on behalf of Respondent.

STATEMENT OF THE CASE

The Petitioner filed a Title 6 Property & Land Complaint challenging her eviction for a violation of law.

ISSUE

Is the Petitioner entitled to continue to reside at 1216 Chief Hill Dr, Green Bay, WI 54313, when there was an alleged violation of an applicable law that criminal activity has occurred on the property?

FINDING OF FACTS

1. The Court has jurisdiction pursuant to Chapter 610, Eviction and Termination, of the Oneida Code of Laws.
2. Notice was provided to all those entitled to notice.
3. A 5 Day Notice to Vacate – Termination of Rental Agreement due to criminal activity occurring on the property was sent to the Petitioner on August 5, 2020 by the Respondent.
4. On August 6, 2020 the Petitioner filed a complaint contesting the eviction.
5. A hearing was held on August 18, 2020 at 2:00 p.m.
6. The Respondent declined Peacemaking.
7. At the hearing, the Petitioner did not dispute that criminal activity occurred on the property.
8. The Petitioner filed a letter that indicated she was a client of the Oneida Domestic Abuse

Program.

9. The Domestic Abuse Defense to Eviction is not applicable in this case.
10. At the hearing, the Respondent verbally motioned to dismiss for failure to state a claim upon which relief can be granted and submitted a report from the Brown County Drug Task Force proving criminal activity has occurred on the property.
11. The Respondent requested the report be sealed and the copy provided to the Petitioner be redacted, as it is part of an ongoing police investigation.
12. The police investigation and safety of individuals in the report may be in jeopardy if not place under seal.
13. The Respondent complied with all requirements under Title 6 O.C. Chapter 610 Eviction and Termination, Section 610.5-3.

PRINCIPLES OF LAW

610.5. Early Contract Termination

610.5-1. *Causes for Early Contract Termination.* The owner may terminate the contract prior to the contract term and evict the occupant, if the occupant:

- (b) Is alleged to have violated any applicable law or rule.

610.5-2. *Domestic Abuse Defense to Eviction.* An occupant has a valid defense to eviction if he or she alleges that if not for the alleged domestic abuse, which is noticed to the owner with any of the following documentation, there would not be cause for eviction under section 610.5-1...

610.5-3. *Notice.* This section governs the amount of notice required to evict as well as the manner and form of notice required. When an owner provides notice in compliance with these requirements, the occupant is not entitled to possession or use of the premises after the date of the termination provided in the notice.

(c) *Eviction for Violation of Applicable Law or Rule or Nuisance by Occupant.* The owner may terminate an occupant's contract based on an alleged violation of an applicable law or rule or if the occupant commits a nuisance act.

(1) In order to terminate based on this section, the owner must have received notice, which may be from, but is not limited to, another occupant, law enforcement agency or a local government's office of the district attorney, which reports:

(A) a violation of an applicable law or rule on behalf of the occupant or in the occupant's unit.

(2) The occupant may contest a termination based on a violation of applicable law or rule or nuisance by filing a complaint challenging the basis of the eviction with the Oneida Judiciary.

(3) If the occupant contests the termination prior to the termination date provided in the notice, the eviction is stayed, and the contract may not be terminated

without proof to the Oneida Judiciary by the owner by the greater preponderance of the credible evidence of the allegation that a violation of law and/or rule and/or nuisance exists in that occupant's unit or was caused by that occupant.

803.32-2. Open Record.

(b)(3) At the request of any party or on its own motion, the Court may seal any part of a case file, preventing public disclosure. A file or part of a file may only be sealed where the safety of a party, witness or other individual may be in jeopardy if the material is not placed under seal.

ANALYSIS

The Respondent may evict a tenant when the Respondent receives notice from a law enforcement agency that reports a violation of applicable law on the Petitioner's property. Here, the Respondent received a report from the Brown County Drug Task Force that reported manufacturing and delivery of heroin and/or narcotics at the Petitioner's premises located at 1216 Chief Hill Drive, Green Bay, WI 54313. The Petitioner did not dispute the criminal activity, but stated it was her son who was involved with the drugs and that he no longer lives with her. While this may be true, it does not take away from the fact that criminal activity did occur on the property. As a result, the Respondent is entitled to evict her.

The Respondent requested the Brown County Drug Task Force Report be sealed and a redacted copy be provided to the Petitioner. The Court may seal any part of a case file where the safety of an individual may be in jeopardy, if not sealed. Here, the report is a part of an ongoing police investigation and includes names of other individuals in the report. The police investigation and safety of individuals in the report may be in jeopardy if not placed under seal. Therefore, the Court must seal the report and the copy provided to the Petitioner must be redacted.

Before the hearing, the Petitioner filed a letter that indicated she was a client of the Oneida Domestic Abuse Program since approximately July of 2018. The Court construed the letter filed to be a Domestic Abuse Defense to Eviction request. At the hearing, it was determined the Domestic Abuse Defense to Eviction defense did not apply in this case. The criminal activity in this case did not involve the domestic abuser. The Petitioner has not had any contact with the domestic abuser for quite some time. The Petitioner did not provide any of the required notices to the Respondent regarding domestic abuse. In addition, the Petitioner did not allege that if not for the domestic abuse there would not be cause for eviction. Therefore, the domestic abuse defense does not apply.

During the hearing, the Petitioner requested more time to vacate. The Respondent offered to extend the changing of the locks to September 1, 2020 by 11:00 a.m. After the locks are changed, the Petitioner will have fifteen (15) days to collect her belongings by contacting the Respondent to schedule times to enter the property.

CONCLUSIONS OF LAW

The Petitioner is not entitled to continue to reside at 1216 Chief Hill Dr, Green Bay, WI 54313.

ORDER

1. The eviction is upheld.
2. The Petitioner must vacate the home before the locks are changed on September 1, 2020.
3. The Petitioner shall have until September 16, 2020 to collect her belongings from the home by contacting the Respondent.
4. The Brown County Drug Task Force Report shall be sealed, and a redacted copy shall be provided to the Petitioner.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council and an Order signed on August 19, 2020.

Layatalati Hill, Trial Court Judge