

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Oneida Nation / Oneida Police Department,
PETITIONERS

v.
Pauline M. Ackley,
DEFENDANT

CASE NO: 20-CT-028 and 20-CT-029
DATE: May 21, 2021

ORDER

This case has come before the Oneida Trial Court, Honorable Patricia Ninham Hoeft presiding.

Appearing by phone: Attorney Kelly McAndrews, representing Petitioners.

Non-appearance: Pauline M. Ackley, Defendant.

STATEMENT OF THE CASE

On January 21, 2021 a citation pre-hearing was held regarding two citations issued to Defendant for violations of the Oneida Code of Laws, Chapter 304, Domestic Animals. Both violations occurred on October 16, 2020. The pre-hearing was continued after finding the citations were not properly served to Defendant. The pre-hearing was rescheduled to March 18, 2021; however, that date was negated by a different date listed on the re-issued citations delivered in-person by Petitioner to Defendant to complete proper service. The rescheduled pre-hearing date listed on the re-issued citations was May 20, 2021.

FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. Defendant received proper notice.
3. Defendant was issued two citations for violations that occurred on October 16, 2020:
 - a. 304.6-1. *License Required*; and
 - b. 304.6-2. *Rabies Vaccinations Required*.
4. Defendant did not appear at a pre-hearing on January 21, 2021, which was rescheduled to provide additional time for Petitioner to complete proper service.
 - a. Petitioner completed proper service by in-person delivery of the citations to Defendant on February 23, 2021.
 - b. The rescheduled pre-hearing date specified in the Court's order was negated by the

date listed on the re-issued citations Petitioner delivered in-person to Defendant to complete proper service.

- c. The pre-hearing date listed on the re-issued citations was May 20, 2021 at 9:00 a.m.
5. Defendant did not appear at the rescheduled pre-hearing on May 20, 2021.
 - a. Defendant did not provide written notice to the Court intending to contest the citations, nor did Defendant pay the citations prior to the pre-hearing or stipulate to an agreement.
 - b. The Court made two attempts to call Defendant at the telephone number listed on each of the citations and Defendant did not answer.
6. Defendant was found in default for failure to appear.

PRINCIPLES OF LAW

Oneida Code of Laws, Title 3. Health and Public Safety – Chapter 304 Domestic Animals 304.6. Dogs and Cats

304.6-1. *License Required.* An owner shall be required to obtain a license for any dog or cat five (5) months of age or older on an annual basis.

304.6-2. *Rabies Vaccinations Required.* An owner shall be required to obtain a rabies vaccination for any dog or cat five (5) months of age or older.

Oneida Code of Laws, Title 8. Judiciary - Chapter 807 Citations

807.6-1. Citation Pre-Hearing.

(f) If a defendant does not appear at the pre-hearing or submit written notice that he or she is contesting the citation when there is a non-mandatory appearance, and the defendant has not entered into a stipulation or paid the fine and/or penalty as listed on the citation, the Court may proceed to enter a default judgment.

(1) A default judgment may include any fine amount due, restitution, suspension of any rights, privileges, or licensures, and/or any other penalty authorized by law.

Oneida Trial Court Rules – Rule #1

1.5 Default Judgment.

1.5-3. If the Trial Court finds that proper notice was provided, the Trial Court may enter judgment against the party that failed to appear. The Trial Court, in its discretion, may require a party to produce sufficient evidence to support a judgment against the other party.

ANALYSIS

Defendant was cited for violations of 304.6-1, failure to obtain license, and 304.6-2, no current rabies vaccination. The citations do not require the Defendant to appear. Here, Defendant did not appear or provide written notice to contest the citations. Also, Defendant did not pay any citation

finer or stipulate to an agreement. Therefore, the Court orders a default judgment as described below.

ORDER

1. A default judgment is entered in favor of Petitioner and against Defendant in the following amounts:

a) 304.6-1. License Required

Fine	\$ 25.00
Court Costs	\$ 25.00
Amount owed by Defendant	\$ 50.00

b) 304.6-2. Rabies Vaccinations Required

Fine	\$ 75.00
Court Costs	\$ 25.00
Amount owed by Defendant	\$100.00

- 2. The total amount due is \$150.00, payable to the Oneida Judiciary within 60 (sixty) days from the date this Order is signed. Failure to pay is subject to the Nation’s laws and remedies.
- 3. The parties have the right to appeal in accordance with the Nation’s laws.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council an Order was signed on May 21, 2021.

Patricia Ninham Hoeft, Trial Court Judge