

## COURT OF APPEALS

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Luther J. Laster,

Appellant,

Case No.: 21-AC-011

v.

Date: November 15, 2021

Fawne M. Teller Rasmussen,

Respondent.

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### INITIAL REVIEW DECISION

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This matter has come before Appellate Judges Diane House, Chad Hendricks, and Leland Wigg-Ninham.

#### BACKGROUND

Luther J. Laster (hereinafter “Laster”) was issued a written warning on June 22, 2021. Laster appealed this written warning to the Area Manager, who upheld the disciplinary action on July 27, 2021. Laster was issued a 7-day suspension from employment on July 19, 2021. Laster appealed this suspension to the Area Manager, who upheld the 7-day suspension. Laster filed an appeal of the Area Manager’s decision upholding his suspension to the Oneida Judiciary Trial Court. The Trial Court upheld the decision of the Area Manager on September 7, 2021. Laster filed a Notice of Appeal with this Court on October 7, 2021, requesting reversal of the Trial Court decision.

#### DECISION

After reviewing the information contained in the Notice of Appeal, and the Trial Court’s Final Order, it is determined that Laster has not sufficiently alleged that the Trial Court’s decision:

1. Violated provisions, substantive or procedural, of applicable Tribal law or applicable federal law;
2. Is an administrative decision that was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law; or

3. Is not supported by the substantial evidence on the record taken as a whole.

Laster alleges that the Trial Court erred in its interpretation of *Denny v. Table Games*, 11-AC-005. He states that because the appeal for the written warning issued on June 22, 2021, was still pending, it could not be included as a basis for the progressive disciplinary action issued on July 19, 2021.

We disagree. The Trial Court was correct in its interpretation of *Denny*. Disciplinary actions are considered valid and upheld until overturned by the Area Manager, Personnel Commission or Oneida Judicial System. When the 7-day suspension was issued on July 19, 2021, the Area Manager had yet to render her decision on Laster's appeal of his written warning. As a result, the immediate supervisor could use the previous disciplinary action as basis for issuing progressive disciplinary action if warranted.

With regard to the written warning issued on June 22, 2021, Laster did not file a timely appeal of the Area Manager's decision to uphold this disciplinary action with the Trial Court. As a result, any further appeals of the Area Manager's decision is denied by this Court.

By the authority vested in the Oneida Judiciary, Court of Appeals, in Oneida General Tribal Council Resolutions 01-07-13-B and 03-19-17-A, this appeal is **DENIED** for review. Dated this 15th day of November 2021, in the matter of Case No. 21-AC-011, *Luther J. Laster v. Fawne M. Teller Rasmussen*.

***It is so ordered.***