

COURT OF APPEALS

JEAN M. ROSE,
Appellant,

v.

ERIC BOULANGER and
JOEL MAXAM,
Respondents.

Case Number: 22-AC-002

Date: February 28, 2022

INITIAL REVIEW DECISION

This matter has come before reviewing Appellate Judges, Leland Wigg-Ninham, Michele Doxtator, and Chief Appellate Judge, Patricia M. Garvey.

JURISDICTION

The Court of Appeals has jurisdiction over this matter per §801.8-2(a)(2) of the Oneida Judiciary Law which gives this Court exclusive jurisdiction to review appeals from the Trial Court.

BACKGROUND

The Appellant, Jean M. Rose (hereinafter “Rose”), was a Dispatch Supervisor for the Oneida Police Department (hereinafter “OPD”). Rose was terminated from employment on November 19, 2021 for numerous violations of the Oneida Personnel Policies and Procedures (hereinafter “OPPP”) and OPD Standard Operating Procedure: Rules, Regulations and Department Guidelines (hereinafter “SOP”). The Area Manager, Joel Maxam, upheld Rose’s termination. Rose timely appealed the Area Managers decision to the Oneida Judiciary, Trial Court (hereinafter “TC”). The TC found there were no procedural irregularities harmful to the Rose. The TC denied a hearing and upheld the decision of the Area Manager. Rose timely appealed the TC decision to this Court on January 28, 2022.

ISSUE

Whether the Trial Court erred in denying a hearing when it found there were no procedural irregularities exhibited during the appeal process?

ANALYSIS

The OPPP is the employment law of the Oneida Nation. Section V.D.6.d.1. defines the procedure for reviewing a complaint.

- 1) The Human Resources Department shall provide the information obtained to the Oneida Personnel Commission members selected to serve as the hearing body for the complaint, and the Oneida Personnel Commissioners (**See TC Final Order, page 2, footnote 1, 12/30/2021**) shall review all the information submitted by the Petitioner and the Human Resources Department to determine if **one or both conditions exist** (emphasis added):
 - a. The decision of the Area Manager is clearly against the weight of the evidence and/or,
 - b. Procedural irregularities were exhibited during the appeal process that may have been harmful to one of the parties to the grievance.
- 2) If the... Personnel Commission[s]...find one or both conditions exist, the Human Resources Department shall convene the Oneida Personnel Commission to hear the grievance.
- 3) If the...Personnel Commissioner[s]...find that neither condition exists,...the Personnel Commission will deny the appeal for a hearing and affirm the decision of the Area Manager.

In this case, the TC correctly cited the two issues identified in OPPP and stated “[t]he Court must determine if one or both of the following conditions exist in order to hear the grievance;

1. Was the decision of the Area Manager clearly against the weight of the evidence?
2. Were procedural irregularities exhibited during the appeal process that were harmful to the Petitioner?”

Although the TC cited the law correctly, the TC omitted condition 1. and analyzed condition 2. finding no procedural irregularities and used this to deny Rose a hearing upholding the decision of

the Area Manager. Under the law, the TC was required to find neither condition exists before denying the appeal and upholding the decision of the Area Manager. The TC is required to determine if the Area Manager's decision is clearly against the weight of the evidence before a decision can be made on whether the grievance can be heard or whether the TC can deny the appeal for hearing.

DECISION

For reasons set forth above, we REVERSE the Trial Court's order and REMAND for further proceedings.

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 remanded for further proceedings. Dated this 28th day of February 2022, in the matter of Case No. 22-AC-002, *Jean M. Rose v. Eric Boulanger and Joel Maxam*.

It is so ordered.