
TRIAL COURT

**Briana A. Summers,
Petitioner**

v.

Case No: 22-TC-001

Date: February 17, 2022

**Comprehensive Housing Division,
Respondent**

ORDER

This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding. *Appearing in person:* Petitioner, Briana A. Summers; Respondent, Attorney Krystal L. John, representing the Comprehensive Housing Division.

Background

On January 19, 2022, Petitioner filed a Title 6 Property and Land complaint challenging the termination of her rental agreement for an alleged applicable law violation. A pre-trial hearing was held January 25, 2022, as a result, the Court ordered a scheduling order on January 28, 2022. On February 11, 2022, the Respondent motioned the Court to Extend and Witness and Evidence Lists and Petitioner's Advocated submitted his Notice of Representation. A final hearing was held on February 15, 2022.

Principles of Law

**Oneida Code of Laws, Title 8. Oneida Judiciary Rules of Civil Procedure – Chapter 803
803.21-1(b). *Dismissal of Action.***

(b) *By Court Order; Effect.* Except as required in Rule 803.21-1(a)(1), an action may be dismissed at the plaintiff's request only by Court order, on terms that the Court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (b) is without prejudice.

**Oneida Code of Laws, Title 8. Professional Conduct for Attorneys and Advocates –
Chapter 810**

810.14-2(e) *Declining or Terminating Representation*

Counsel may withdraw from representing a client if:

(e) The client fails substantially to fulfill an obligation to counsel regarding counsel's services and has been given reasonable warning that counsel will withdraw unless the obligation is fulfilled;

Analysis

Motion to Dismiss

In accordance with 803.21-1(b), an action may be dismissed at the Respondent's request only by Court Order if the Court determines the request is proper. Further, unless the order states otherwise, a dismissal under this section is without prejudice. Here, a pre-trial hearing was held on January 25, 2022, resulting in the Court ordering a Scheduling Order. The Order identified discovery and/or witness lists due Tuesday, February 8, 2022. On Friday, February 11, 2022, Respondent filed a motion to Extend and Witness and Evidence Lists to Monday, February 14, 2022 at 4:30 p.m., the Court found Respondent's reasoning agreeable and granted the request.

At the final hearing, the Respondent motioned the Court to dismiss this action based upon Respondent's belief the Petitioner has not submitted any information or at any time alleged that the illegal activity did not occur at her residence. During the final hearing, the Court provided the Petitioner opportunities to respond to Respondent's motion. After the Court re-phased what the Respondent was asking for to the Petitioner, the Petitioner stated she did not have any information to present to the Court alleging the illegal activity did not occur at her residence. The Petitioner also stated she does not object to Respondent's motion to dismiss. After thoroughly examining all information, the Court finds the Respondent's motion to dismiss proper.

Motion to Withdraw Representation for the Petitioner

A pre-trial hearing was held on January 25, 2022, which resulted in the Court ordering a Scheduling Order. The Order identified discovery and/or witness lists due Tuesday, February 8, 2022. On Friday, February 11, 2022, Petitioner's Advocate, Tsyoslake House submitted his Notice of Representation of the Petitioner to the Court. Also, on this date, Respondent filed a motion to Extend and Witness and Evidence Lists to Monday, February 14, 2022 at 4:30 p.m., the Court granted Respondent's request. On Monday, February 14, 2022, Petitioner's Advocate motioned the Court to withdraw his representation of the Petitioner due to his belief his client failed to substantially fulfill an obligation to him regarding advocate services and was given reasonable warning that his services could be withdrawn as a result. At the final hearing, the Petitioner explained Advocate House did request important documents relevant to this case from Petitioner but explained she was not able to provide all documents requested. The Court then heard from the Respondent which shared she does not have a position and will leave it to the discretion of the Court. After hearing from both parties and carefully reviewing and considering all information, the Court finds Advocate Houses' request to be withdrawn as Petitioner's advocate reasonable and proper.

Findings of Fact

The Court finds as follows:

1. The Court has subject matter, territorial, and personal jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. On Friday, February 11, 2022, Petitioner's Advocate filed notice of representation to the Court.

4. On Friday, February 11, 2022, Respondent motioned the Court to Extend and Witness and Evidence Lists to Monday, February 14, 2022 at 4:30 p.m.
 - a. The Court granted Respondent's request.
5. On Monday, February 14, 2022, Petitioner's Advocate motioned the Court to Withdraw his representation of the Petitioner.
6. A final hearing was held on February 15, 2022 at 10:00 a.m.
7. At the final hearing, the Respondent motioned the Court to dismiss this case if the Petitioner fails to submit information or at any time has alleged that the illegal activity did not occur at her residence.
 - a. The Petitioner did not present information that the alleged illegal activity did not occur at her residence.
 - b. The Petitioner did not object to Respondent's motion to dismiss.
 - c. The Respondent's motion to dismiss is proper.

Order

1. The Court grants Advocate Houses' request to be withdrawn as Advocate for the Petitioner.
2. The Court grants the Respondent's motion to dismiss.
 - a. The Respondent shall change the locks to Petitioner's rental unit at W350 Cornelius Circle, Oneida, Wisconsin 54155 effective February 15, 2022.
3. This case is dismissed with prejudice.

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 signed on February 17, 2022 in the above referenced matter.



John E. Powless III
Trial Court Judge