

COURT OF APPEALS

CINDY L. LECKER,

Appellant

Case No.: 22-AC-004

v.

Date: June 7, 2022

MARK W. POWLESS,

Respondent.

INITIAL REVIEW DECISION

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

BACKGROUND

The Appellant, Cindy L. Lecker (hereinafter “Lecker”) was terminated by her supervisor on March 8, 2022. On March 14, 2022, Lecker appealed her termination to the Area Manager named on the Disciplinary Notice. However, the first Area Manager needed to recuse herself due to nepotism. The next level Area Manager needed to recuse herself due to prior involvement. On March 17, 2022, the appeal then went to the next Area Manager in the chain of command, Respondent, Mark W. Powless (hereinafter “Powless”). On March 31, 2022, Powless upheld the termination. Lecker filed an appeal with the Oneida Judiciary Trial Court. On April 20, 2022, the Trial Court upheld Powless’ decision. Lecker filed a Notice of Appeal with this Court on May 11, 2022.

ANALYSIS

Lecker claims that Powless’ decision was untimely and the time to issue his decision should have started when she filed her appeal with the original Area Manager. Lecker does not provide any legal argument to back her claim.

The Oneida Personnel Policies and Procedure, §V.D.6.a.2. states, “The Area Manager, for all disciplinary action investigations, will have ten (10) working days **from the receipt of the employee’s appeal** [emphasis added] to complete the investigation.” The Trial Court Judge found, “*When there is a recusal involved, it is unreasonable to expect an Area Manager to complete an investigation and formulate a decision in a grievance appeal when the Area Manager does not have sufficient time.*” We agree.

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

1. Violates applicable provisions of the Constitution;
2. Violates provisions, substantive or procedural, of applicable Tribal law or applicable federal law;
3. Is an administrative decision that is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law; or
4. Is not supported by the substantial evidence on the record taken as a whole.

For the reasons stated above, this appeal is DENIED for review.

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, the appeal is DENIED for review. Dated this 7th day of June 2022, in the matter of Case No. 22-AC-004, *Cindy L. Lecker v. Mark W. Powless*.

It is so ordered.