
Appellate Court

Steve Huff,
Appellant

Docket No. 03-AC-014

vs.

Oneida Bingo & Casino,
Slots Department
Respondent

Date: October 15, 2003

Final Decision

This appeal has come before the Oneida Appeals Commission Appellate Court. Judicial Officers Leland Wigg-Ninham, Mary Adams, Linda Cornelius, Marjorie Stevens and Winnifred Thomas presiding.

I Background

The appellant is requesting that the Oneida Appeals Commission overturn the March 26, 2003, decision of the Oneida Personnel Commission. On December 31, 2003, the Appellant was suspended for five (5) days for a violation of the Oneida Tribe's Personnel Policies and Procedures Manual, V.D.2.II.a., "Failure to report promptly and observe work schedules without specific approval of the supervisor." On January 6, 2003, the Appellant appealed to the Area Manager. On January 15, 2002 the Area Manager upheld the suspension. The Appellant appealed to the Oneida Personnel Commission and a grievance hearing was conducted on March 26, 2003.

II Issues

Is the decision of the Oneida Personnel Commission erroneous and against the weight of the evidence?

Did the Oneida Personnel Commission err when they ruled that no procedural irregularities existed in the disciplinary process?

III Analysis

Is the decision of the Oneida Personnel Commission erroneous and against the weight of the evidence?

The Oneida Personnel Policies and Procedures provides a set of criteria or disciplinary actions for which an employee may be disciplined. The Appellant was disciplined under Blue Book V.D. 2.a.¹, which permits disciplinary actions for attendance and punctuality.

¹ Work Performance-II. Attendance and Punctuality a., Failure to report promptly and observe work schedules (such as starting time, quitting time, rest and meal breaks) without the specific approval of the supervisor. (W/S/T)

The Respondent provided evidence to this court that the Appellant was given a written warning on November 20th, 2002 and knew of the expectations and consequences for continued un-excused tardiness and/or absences. Under V.D. 2.a, of the Oneida Personnel Policies and Procedures; Disciplinary actions will be initiated by an immediate supervisor for the purpose of correcting unacceptable work performance. The supervisor will always discuss the action with the employee being disciplined to ensure the employee:

- 1.) *Understands the reason for the disciplinary action*
- 2.) *Understands the expected work performance in light of the disciplinary action.*
- 3.) *Understands the consequences of continued unacceptable behavior.*

The Respondent proved through evidence and testimony that the Appellant had a history of un-excused tardiness and absence's and the five (5) day suspension issued to correct his situation was warranted. This court therefore agrees that the decision of the Oneida Personnel Commission is not erroneous and against the weight of the evidence.

Did the Oneida Personnel Commission err when they ruled that no procedural irregularities existed in the disciplinary process?

The Appellant contends that the Respondent did not investigate the violation. The Respondent sufficiently proved through testimony that she did discuss the violations with the Appellant prior to issuing the suspension, thus providing the Appellant an opportunity to be heard. Furthermore, the Appellant was issued a written warning on November 20, 2002, for attendance violations proving that the Appellant had some serious attendance problems which had to be corrected or accept the consequences if they continued. Through testimony it was proven that the Appellant was given the opportunity of avoiding the suspension by changing shifts, which the Appellant failed to do.

The Oneida Personnel Commission focused on procedural irregularities in the disciplinary process and did not find any evidence that the Respondent did not follow the proper progressive disciplinary action as outlined in the Blue Book. After reviewing the evidence and testimony in this case, this court finds that the Oneida Personnel Commission did not err when they ruled that no procedural irregularities existed in the disciplinary process of the Appellant.

IV Decision

This hearing body affirms the decision of the Oneida Personnel Commission.

It is so ordered.