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**Appellate Court**

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Oneida Human Resources Department,  
Appellant

Docket No. 03-AC-022

vs.

Oneida Gaming Commission,  
Timothy A. Huff, and  
Amelia Cornelius  
Respondents

Date: December 30, 2003

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**Decision**

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This case has come before the Oneida Appeals Commission Appellate Court. Judicial Officers, Mary Adams, Janice McLester, Kirby Metoxen, Winnifred Thomas and Leland Wigg-Ninham presiding.

**I Background**

The Appellant, Oneida Human Resources Department, is appealing a decision made by the Oneida Personnel Commission Initial Review in the matter of Timothy Huff and Amelia Cornelius dated August 7, 2003. The decision is based on a memo filed with the Oneida Personnel Commission on July 30, 2003, regarding a job reassignment for Carl Prevost, Oneida Gaming Employee. The memo came from Timothy Huff, Oneida Gaming Commission Investigator, and Amelia Cornelius, Oneida Gaming Commission Vice-Chair.

The memo addressed various issues including: 1) the validity of a job reassignment for Carl Prevost; 2) Carl Prevost was reassigned from the Internal Security Department to the Valet Department on December 30, 2001 after being terminated on December 13, 2001; 3) Carl Prevost resigned from the Internal Security Department on December 14, 2001 and was allowed to take vacation time from December 16 to December 29, 2001 and; 4) the documents from Carl Prevost's employee file were either missing or tampered with. The memo requests that procedures be implemented by the Oneida Personnel Commission and the Oneida Human Resources Department to prevent this type of incident from reoccurrence.

On August 7, 2003 two Oneida Personnel Commissioners wrote a decision addressing the questions submitted in the July 30, 2003 memo and ordered the Oneida Human Resources Department to terminate Carl Prevost with the effective date of December 13, 2001. The Appellant claims the Respondents acted outside their scope of authority when they wrote a decision without holding a hearing. The Appellant claims retro-terminations are not available. The Appellant claims they are not the department to issue a termination to Mr. Prevost. Therefore, the Appellant is unable to fulfill the orders of the Oneida Personnel Commission.

On November 18, 2003 the Respondents filed a Notice of Motion and Motion to Dismiss stating that

the Appellant failed to state a claim upon which relief can be granted due to the Appellant's failure to join an indispensable party.

## **II Issue**

Should the Respondent's Motion to Dismiss be granted?

Is it proper for the Oneida Personnel Commission to render a decision without holding a hearing?

## **III Analysis**

Should the Motion to Dismiss be granted? The court denies the Respondent's Motion to Dismiss. This issue is before the Oneida Appeals Commission because the Respondents submitted a memo to the Oneida Personnel Commission. The Oneida Personnel Commission rendered its decision based on the memo initiated by the Respondents. The Oneida Personnel Commission ordered the Appellant to terminate Mr. Prevost. The Respondents question the legality of the Oneida Personnel Commission's decision.

Is it proper for the Oneida Personnel Commission to render a decision without holding a hearing? The Oneida Personnel Commission's decision is unofficial and bears no weight because the decision was rendered without a proper hearing. The memo from Huff and Cornelius does not constitute a grievance. Therefore, the court overturns the Oneida Personnel Commission decision which orders the Respondent to terminate Mr. Prevost.

The Oneida Gaming Commission is within its authority to request clarification of employee's status on licensing issues. A procedural irregularity exists when the Oneida Personnel Commission renders an Initial Review decision without a proper hearing. The Appellant is not the proper entity to terminate a Gaming Employee according to the Oneida Personnel Policy and Procedures, disciplinary actions and timelines necessary for termination. It is with this reasoning that the court overturns the decision of the Oneida Personnel Commission Initial Review. It was improper for the Oneida Personnel Commission to render a decision without holding a hearing.

## **IV Decision**

The Oneida Personnel Commission Initial Review decision is overturned. It is so ordered.