

ONEIDA JUDICIARY
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TRIAL COURT

Randi R. Walking Eagle,
Petitioner

v.

Case No: 22-TC-006

Date: July 8, 2022

Comprehensive Housing Division,
Respondent

ORDER

This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding.

Background

On June 13, 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 scheduled for June 17, 2022.

Principles of Law

803.13. Substitution of Parties

803.13-1. *Death of a Party.*

(a) Substitution if the Claim Is Not Extinguished. If a party dies and the claim is not extinguished, the Court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within ninety (90) days after service, to the Court and all other parties, of a statement noting the death, the action by or against the decedent shall be dismissed.

Analysis

On July 16, 2022, the Court was notified Petitioner passed away on June 15, 2022. Pursuant to 8 O.C. 803.13-1(a), if a party dies and the claim is not extinguished, the Court may order a substitution for the decedent party or the decedent's successor or representative may motion for substitution. If a motion is not made within ninety (90) days following service to the parties and the Court, of a statement of death, the action by or against the decedent shall be dismissed.

Here, Petitioner's claim that Respondent erred in terminating her rental agreement was not extinguished. According to statements gathered by Respondent, there is no adult identified to take the place of Petitioner in this litigation. The only remaining tenants in the unit were Petitioner's minor children. Also, Petitioner's mother, who is taking care of Petitioner's minor

children, indicated it is the families desire to surrender the unit and no longer rent the unit from Respondent. Due to the decedent's successor or representative not filing a Motion for Substitution, the Court dismisses this action.

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. Petitioner timely filed a complaint with the Oneida Judiciary on June 13, 2022 to contest the termination of her rental agreement.
4. A pre-trial hearing was scheduled for June 17, 2022 at 10:00 a.m.
5. Petitioner passed away on June 15, 2022.
 - a. The only remaining tenants in the unit were Petitioner's minor children.
 - b. A successor or representative of Petitioner has not filed a Motion for Substitution to the Court.
6. On July 5, 2022, Respondent filed a Motion to Dismiss with Prejudice.

Order

1. Respondent's Motion to Dismiss with prejudice is GRANTED.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council, this order was signed on July 8, 2022 in the above referenced matter.

[Redacted Signature]

John E. Powless III
Trial Court Judge

