

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Lori A. Elm

Petitioner,

v.

CASE NO: 21-TC-004

ONEIDA NATION

**Comprehensive Housing Division,
Respondent,**

DATE: September 2, 2021

FINAL ORDER

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

STATEMENT OF CASE

Respondent is seeking a Judgment to Enforce Lease Termination and Eviction recognizing the judgement is satisfied with a zero remaining balance owed by Respondent to Petitioner and zero remaining balance owed by Petitioner to Respondent.

PRINCIPLES OF LAW

6 O.C. Property and Land – Chapter 602, Leasing Law, Rule #1 – Residential Leasing

1.9. Residential Lease Termination

1.9-2. Termination. Any termination of a residential lease is subject to requirements of the Eviction and Termination law and shall require CHD to compensate the lessee for any improvements located upon the premises upon said termination in accordance with section 1.10 of this rule.

1.10. Compensation for Improvements Upon Residential Lease Termination

1.10-1. Any time CHD terminates a residential lease which has improvements fixed to the premises, the Nation shall provide the lessee/lessee's estate with compensation for said improvements upon termination.

(a) *Determining Compensation Amount.* The amount of compensation required for any improvements fixed to the premises shall be calculated using a current appraisal of the improvements only and deducting the following from the appraisal value:

- (1) The cost to satisfy any mortgage/encumbrance upon the premises and/or improvements;
- (2) The cost of the appraisal and home inspection, provided that CHD shall select the service providers;
- (3) The cost to bring the improvements to a minimal health and safety standard in

accordance with the determination of the Zoning Department and/or the home inspection; and
(4) Any debts and/or other administrative costs owed to the Nation by the lessee.

ANALYSIS

In accordance with Rule #1 of the Leasing Law, upon the termination of a residential lease which has improvements fixed to the premises, the homeowner can recoup the value of the improvement, minus the cost to satisfy the mortgage upon the premises, the cost of appraisal and home inspection and the cost to bring the improvements to a minimal health and safety standard in accordance with the determination of the Zoning Department and/or the home inspection.

Here, Respondent complied with the requirement of obtaining a current appraisal of the improvement fixed to the premises and further deducted the following costs: satisfaction of mortgage, appraisal, home inspection, and cost to bring the improvements to a minimal health and safety standard in accordance with the Nation's Zoning Department and/or home inspection.

Finally, the Oneida Rules of Civil Procedure requires the opposing party to respond to the motion within fourteen (14) days from the date the motion is filed with the Court. Here, Petitioner is the opposing party. In this case, Petitioner objected to Respondent's motion within fourteen (14) days of the motion being filed with the Court. The Court ordered Petitioner to provide additional information regarding objections and for Respondent to respond. Based on the submissions by the parties, Petitioner's request for an additional hearing is denied.

In this case, Petitioner violated and was terminated from a Comprehensive Housing Division (CHD) residential lease. As a result, Rule #1 of the Leasing Law determines a process of compensation for fixed improvements upon the premises. Respondent complied with requirements identified in Rule #1 of the Leasing Law. The Court agrees with Respondent.

Therefore, the Court grants relief requested by Respondent.

FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. A Judgement of Foreclosure was issued on April 9, 2021.
4. Respondent filed a Motion to Enforce Lease Termination and Eviction on July 16, 2021.
 - a. A final accounting and confirmation of the appraisal of the premises was included with the filing of the motion as exhibits: B, C, D, E, F, G, H, and I.
 - b. Respondent submitted a total Foreclosure related wrap-up costs of \$14,101.97 based on the following costs: Pro-rated Property Taxes, Appraisal, Home Inspection, Improvements, Removal of Personal Belongings, and Maintenance Costs.
 - c. Respondent mailed a check in the amount of \$90,242.86, dated July 13, 2021 to Petitioner for total remaining amount due based on foreclosure wrap-up.
5. Petitioner filed an objection to line items and entry of judgment and motioned for a hearing.
 - a. Petitioner filed a response to Respondent's request on July 22, 2021.
 - b. The Court ordered Petitioner to submit additional information supporting

claims and a response by Respondent on July 26, 2021.

- c. The Court denied Petitioner's request for a hearing on August 31, 2021.
6. The judgement is satisfied with a zero remaining balance owed by Respondent to Petitioner and a zero remaining balance owed by Petitioner to Respondent.


ORDER

The Court grants the relief sought by the Respondent as follows:

1. The motion for a Judgment to Enforce Lease Termination and Eviction is granted.
2. The Judgment is satisfied.
3. This case is closed.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary Trial Court pursuant to B.C. Resolution 03-13-19-C this order signed on September 2, 2021.


John E. Powless III, Trial Court Judge

