

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Sheila R. Dash,
Petitioner

v.

CASE NO: 23-EMP-002

Oneida Main Casino Cage,
Respondent

DATE: March 17, 2023

FINAL ORDER

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

BACKGROUND

The Petitioner filed an appeal of her Area Manager's decision upholding Petitioner's termination from employment.

ISSUES

The Court must determine if one or both of the following conditions exist in order to hear the grievance:

1. Was the decision of the Area Manager clearly against the weight of the evidence?
2. Were procedural irregularities exhibited during the appeal process that were harmful to Petitioner?

ANALYSIS

DECISION OF AREA MANAGER CLEARLY AGAINST THE WEIGHT OF EVIDENCE

Petitioner claims that the decision of the Area Manager was clearly against the weight of evidence because she was not informed of the decision of the Area Manager. This claim, however, is not an allegation the decision was clearly against the weight of evidence but would more align with a claim that procedural irregularities were exhibited during the appeal process that were harmful to Petitioner. Therefore, the Court finds a claim for the decision of the Area Manager being clearly against the weight of evidence was not made by Petitioner. As a result, the Court will address Petitioner's claim below as a procedural irregularity that was harmful to Petitioner.

HARMFUL PROCEDURAL IRREGULARITY EXHIBITED DURING THE APPEAL PROCESS

The OPPP requires the Court to determine if procedural irregularities were exhibited during the appeal process that were harmful to one of the parties. Here, Petitioner claims it was a procedural irregularity that she was not informed of the Area Manager's decision and that it was harmful

because she lost wages and benefits. Respondent filed UPS Ground tracking documentation showing when and where the Area Manager's decision was sent with tracking number: 1Z5778444275814418. The original "ship to" address shows Sheila Dash #5 1438 Admiral Court, Green Bay, WI, 54303. It was shipped on January 13, 2023. The tracking number shows it was delivered on January 16, 2023. However, it shows the Area Manager's decision was delivered to 1488 W. Mason St. Green Bay, WI, 54303. The mailing required a signature for pick up. The Tracking shows it was signed for by Galliano. The Court is unaware how the Area Manager's decision was delivered to a different address than was originally on the "ship to" section or who Galliano is. While this could explain why Petitioner did not receive the Area Manager's decision, it also shows the Area Manager's decision was mailed to the proper address of Petitioner. This leads the Court to believe it was a mistake on UPS's part and not of the Area Manager. Therefore, the Court finds there was no procedural irregularity committed by the Area Manager.

The OPPP requires employees to appeal the Area Manager's decision within 10 business days of receipt of the Area Manager's decision. However, because Petitioner did not receive the Area Manager's decision, the Court accepted her appeal to this Court. Additionally, because Petitioner did not receive the Area Manager's decision prior to filing with this Court, the Court examined Petitioner's appeal to the Area Manager and the Area Manager's decision for possible claims that the decision was clearly against the weight of evidence or if procedural irregularities existed that were harmful to Petitioner. Upon review, the Court finds the decision of the Area Manager properly addressed each claim made by Petitioner and that there were no procedural irregularities that were harmful to Petitioner and that the decision of the Area Manager was not clearly against the weight of evidence. Therefore, the decision of the Area Manager must be upheld.

FINDINGS

1. The Court has subject matter and personal jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. Petitioner was terminated from employment on December 3, 2022, for violating the OPPP for:
 - a. V.D.2.c.2(b). A pattern of unexcused or excessive absenteeism and/or tardiness, and
 - b. V.D.3(a). The accumulation of three (3) upheld warning notices within any twelve (12) month period.
4. Petitioner timely appealed the Area Manager's decision upholding her termination to this Court.
5. Petitioner resides at 1438 Admiral Ct. #5, Green Bay, WI, 54303.
6. The Area Manager's decision was mailed to Petitioner's address.
7. The Area Manager's decision was delivered to an address different than Petitioner's address.
8. The Area Manager's decision was not clearly against the weight of evidence.
9. Procedural irregularities that were harmful to Petitioner were not exhibited during the appeal process.

PRINCIPLES OF LAW

Oneida Nation Personnel Policies and Procedures Manual (OPPP):

Section V.D.6.d.1. Review of the Complaint.

- 1) The Human Resources Department shall provide the information obtained to the Oneida Personnel Commission members selected to serve as the hearing body for the complaint, and the Oneida Personnel Commissioners¹ shall review all the information submitted by the Petitioner and the Human Resources Department to determine if one or both conditions exist;
 - a. The decision of the Area Manager is clearly against the weight of the evidence and/or,
 - b. Procedural irregularities were exhibited during the appeal process that may have been harmful to one of the parties to the grievance.
- 2) If Oneida Personnel Commission members selected to serve as the hearing body for the complaint find one or both conditions exist, the Human Resources Department shall convene the Oneida Personnel Commission to hear the grievance.
- 3) If the Oneida Personnel Commission members find that neither condition exists, the Oneida Personnel Commission will deny the appeal for a hearing and affirm the decision of the Area Manager.

Section V.D.2.c.2. Attendance and Punctuality

- b) A pattern of unexcused or excessive absenteeism and/or tardiness. (W/S/T)

Section V.D.3. Accumulated Disciplinary Actions Warranting Termination (Provided that the Drug and Alcohol Free Workplace Policy shall govern disciplinary actions warranting termination for drug and alcohol related violations.)

- a. The accumulation of three (3) upheld warning notices within any twelve (12) month period. (T)

ORDER

The decision of the Area Manager is UPHELD.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary Trial Court pursuant to BC Resolution 03-13-19-C this Order is signed on March 17, 2023



Layatalati Hill, Chief Trial Court Judge



¹ The Court is exercising jurisdiction over employee grievances in accordance with Oneida Business Committee Resolution 03-13-19-C. This resolution gives the Court authority to hear employee grievances until the OPC is ready to resume its hearing authority. To date, the OPC is not yet ready to resume its hearing authority.