

COURT OF APPEALS

Travis Wallenfang,
Appellant,

Case No.: 23-AC-002

v.

Date: July 24, 2023

Oneida Department of Public Works,
Indian Preference Department,
Respondent.

INITIAL REVIEW DECISION

This matter has come before Appellate Judges Chad Hendricks, Leland Wigg-Ninham, and Michele Doxtator.

BACKGROUND

On April 10, 2023, Travis Wallenfang (hereinafter Wallenfang) was terminated from his position as the Indian Preference Coordinator. On April 24, 2023, Wallenfang appealed his termination to the Area Manager, Mark W. Powless (hereinafter Powless). On April 27, 2023 Powless denied the appeal based on Wallenfang's probationary status and cause. On May 16, 2023, Wallenfang filed an appeal of Powless' decision with the Oneida Trial Court (hereinafter TC). On May 25, 2023, the TC issued an order to deny a hearing because Wallenfang's appeal to the TC was untimely. In addition, the TC affirmed the decision of the Area Manager. On June 23, 2023 Wallenfang filed a Notice of Appeal with this Court.

ANALYSIS

This Court has the responsibility to be fair and consistent in its interpretation of existing Oneida law.

Appeal Eligibility

At the time of Wallenfang's termination, Business Committee (hereinafter BC) Resolution # 05-11-22-A, "Additional Emergency Amendments to the Oneida Personnel Policies and Procedures (hereinafter OPPP) – Selection Policy" was in effect. The following language is included within the Resolution (under the eleventh (11th) Whereas):

The emergency amendments to the Law will clarify that termination of an employee for cause during their original probationary period shall **NOT** *[emphasis added]* be subject to appeal.

On November 7, 2022, through BC Resolution # 11-07-22-A, the Emergency Amendments were extended for a six (6) month period and slated to expire May 11, 2023. The Emergency Amendments expired thirty-one (31) days after Wallenfang was terminated. Wallenfang was a probationary employee when his employment was terminated and was not eligible to appeal his termination.

Appeal Timelines

Under V.D.6.b.1) a) of the OPPP, it states, an employee shall file an appeal within ten (10) business days after receipt of the area manager's decision. In this case, in Wallenfang's Employee Grievance Complaint to the TC, he claimed he received Powless' decision on April 25, 2023, but it was issued April 27, 2023. The documents provided by Wallenfang show that he filed his appeal with the TC on May 16, 2023. In his Notice of Appeal, Wallenfang does not dispute the TC's determination that his filing was untimely. It is unclear by the documentation provided by Wallenfang as to when he received Powless' denial. However, because Wallenfang was not eligible to appeal his termination, the matter of timeliness is moot.

DECISION

For the reasons set forth above, Wallenfang's appeal before this Court is **DENIED**. The decision of the Trial Court is **AFFIRMED**. All other issues raised by Wallenfang are moot.

By the authority vested in the Oneida Judiciary Court of Appeals; In Oneida General Tribal Council Resolutions 01-07-13-B and 03-19-17-A, this appeal is hereby **DENIED**. Dated this 24th day of July 2023, in the matter of Case Number 23-AC-002, *Travis Wallenfang v. Oneida Department of Public Works, Indian Preference Department*.

It is so ordered.