

COURT OF APPEALS

Timothy D. Ninham,
Appellant,

Case No.: 23-AC-004

v.

Date: August 8, 2023

Tamara VanSchyndel,
Oneida Casino Surveillance Department,
Respondent.

INITIAL REVIEW DECISION

This matter has come before Appellate Judges Diane House, Patricia M. Garvey, and Pro Tempore Judge Janice McLester.

BACKGROUND

Timothy D. Ninham (hereinafter “Ninham”), Surveillance Supervisor, was issued a two-day suspension for violation of Oneida Nation Policy and Procedure Manual (hereinafter “OPPP”) Section V.D.2.c.2.a, for failure to report promptly and observe work schedules without specific approval of the supervisor. Ninham appealed this suspension to the Area Manager, Tamara VanSchyndel (hereinafter “VanSchyndel”). VanSchyndel upheld the supervisor’s decision to suspend Ninham. Ninham appealed VanSchyndel’s decision to the Trial Court. On June 16, 2023, the Trial Court upheld VanSchyndel’s decision. On July 10, 2023, Ninham filed a Notice of Appeal with this Court.

ANALYSIS

After review of the information contained in the Notice of Appeal and the decision of the Trial Court as the original hearing body¹, it is determined that Ninham has not sufficiently alleged that the Trial Court's decision:

¹ The Trial Court exercised jurisdiction over employee grievances in accordance with Oneida Business Committee Resolution 03-13-19-C.

- 1) Violates applicable provisions of the Constitution;
- 2) Is an administrative decision that is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law; or
- 3) Is not supported by the substantial evidence on the record taken as a whole.

Ninham was suspended for leaving work early on April 18, 2023, without his supervisor's approval. The Trial Court found that Ninham failed to get supervisor approval prior to leaving work. Ninham also alleged a procedural irregularity existed due to his claim of not getting the proper training. The Trial Court reviewed Ninham's claim and found this claim also failed. We agree with this finding.

Ninham does not dispute the fact that he failed to get his supervisor's approval prior to leaving work on April 18, 2023. With no dispute of this finding, we must support the decision of the Trial Court. As a result, we find that Ninham has failed to state legal grounds for his appeal under Oneida Rule of Appellate Procedure §805.52(c)(3).

DECISION

For the reasons set forth above, Ninham's appeal before this Court is DENIED. The decision of the Trial Court is AFFIRMED.

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 8th day of August 2023, in the matter of Case Number 23-AC-004, *Timothy D. Ninham v. Tamara VanSchyndel, Oneida Casino Surveillance Department*.

It is so ordered.