

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Gregory P. Roskom,
Petitioner

v.

CASE NO: 23-EMP-009
DATE: October 24, 2023

Department of Public Works –
Groundskeeping,
Respondent

ORDER

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

Background

Petitioner filed an employee grievance complaint to the Trial Court on August 1, 2023, to appeal the Area Manager’s decision to uphold the supervisor’s decision to terminate Petitioner’s employment. Petitioner seeks to overturn the termination. The parties agreed to participate in peacemaking at the August 16, 2023, pre-trial hearing. On October 20, 2023, the parties presented an agreement for the Court’s consideration to be incorporated into a court order.

Principles of Law

Title 8. Judiciary - Chapter 803 Oneida Rules of Civil Procedure

Section 803.12-1(a)(5) Facilitating settlement.

(A) If the parties request or agree to participate in peacemaking or mediation, the trial proceedings may be stayed up to forty-five (45) days in order for the parties to work towards reaching an acceptable solution.

Analysis

If the parties agree to participate in peacemaking, court proceedings may be stayed up to forty-five (45) days to allow the parties to work towards reaching an acceptable resolution. In this case, the parties agreed to participate in peacemaking. On October 20, 2023, the parties presented a peacemaking agreement to the Court for its consideration to incorporate the agreement into a court order. As a result, peacemaking resulted in an acceptable resolution as described below:

1. To remove the phrase “Termination for Cause” from Petitioner’s employment history within the Oneida Nation.

2. To state the end of Petitioner's employment as a "Separation" from employment, effective July 3, 2023.
3. To acknowledge that treating the end of Petitioner's employment as a "separation from employment" allows Petitioner to apply for employment within the Oneida Nation effective immediately without negatively affecting his employment history.

While the Rules of Civil procedure limit the stay on a proceeding to forty-five (45) days in order for the parties to work toward reaching an acceptable resolution in peacemaking (with an additional 30 days available upon request), 8 O.C. 803.4-4 indicates that the Court may disregard any technical error or defect in a failure to comply with the Rules of Civil Procedure as long as the error or noncompliance does not affect the substantive rights of the parties. In this case, Respondent notified the Court at the pretrial hearing held on August 16, 2023, that she would be unable to participate in the peacemaking process until September 25, 2023. A peacemaking session was eventually scheduled on October 20, 2023. The parties failed to request additional time to participate in peacemaking pursuant to 8 O.C. 803.12-1(a)(5)(B); however, they did reach an agreement. The Court finds that applying section 803.4-4 would be in the interest of justice and the Court adopts the agreement of the parties as opposed to forcing additional litigation upon them.

Findings

1. The Court has subject matter and personal jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. Prior to the Court addressing the filing, the parties agreed to participate in peacemaking at the August 16, 2023, pre-trial hearing.
4. On October 20, 2023, the Peacemaker submitted a peacemaking agreement for the Court's consideration.
5. The peacemaking agreement is reasonable.

Order

1. The Court accepts and approves the agreement of the parties as described below:
 - a. Remove the phrase, "Termination for Cause" from Petitioner's employment history within the Oneida Nation.
 - b. Revise Petitioner's end of employment reasoning from "Termination" to "Separation from employment, effective July 3, 2023."
 - c. Acknowledge that "separation" from employment allows Petitioner to apply for employment within the Oneida Nation effective immediately without negatively affecting his employment history.

IT IS SO ORDERED.

By the authority vested in the Oneida Trial Court pursuant to Resolution 01-07-13-B of the General Tribal Council, this order was signed on October 24, 2023.

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John E. Powless III, Trial Court Judge