

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Rosa Laster,
Petitioner;

v.

Case No: 23-TC-016
Date: January 25, 2024

Carol Smith,
Respondent.

FINAL ORDER OF DISMISSAL

This case has come before the Oneida Trial Court, Honorable Patricia Ninham Hoeft presiding.

Appearing in-person: Rosa Laster, Petitioner; Carol Smith, Respondent; Geraldine Danforth and Bonita Nicholas-Marlewski, Respondent's power of attorneys.

BACKGROUND

On November 17, 2023, Petitioner filed a contract dispute claim seeking money from her deceased parent's individual retirement account that was distributed to Respondent. The Respondent is Petitioner's grandmother and the mother of Petitioner's deceased parent. Petitioner filed on behalf of herself and four (4) other siblings. At a pre-trial hearing on December 20, 2023, the Court determined it lacked subject matter jurisdiction and Petitioner voluntarily withdrew her complaint.

FINDING OF FACTS

The Court finds as follows:

1. All entitled to notice received notice.
2. On November 17, 2023, Petitioner filed a contract dispute claim.
3. On November 22, 2023, Petitioner filed an affidavit of service showing Respondent was served.
4. On December 20, 2023, a pre-trial hearing was held.

5. Respondent was represented by two daughters serving as Respondent's power of attorneys. The daughters are Geraldine Danforth and Bonita Nicholas-Marlewski.
6. Petitioner is seeking to collect a survivor benefit from her deceased parent's individual retirement account that was distributed to the Respondent, the decedent's surviving parent. Petitioner claims the following:
 - a. The survivor benefit of \$169,078.83 was distributed to the Respondent who is Petitioner's grandmother and mother to Petitioner's deceased parent.
 - b. Petitioner admits the survivor benefit was distributed to Respondent because no beneficiaries were designated for the retirement account.
 - c. Petitioner claims the survivor benefit should be distributed equally to each of the decedent's five surviving children, which includes Petitioner.
7. The individual retirement account was established under the entity, The Building Trades United Pension Trust Fund, Ironworkers Local #8. The Pension Fund is a private employer not owned or operated by the Oneida Nation.
8. Respondent's representatives claim that the pension fund intended to keep the survivor benefit because a beneficiary was not named but then determined Respondent to be the default beneficiary because the decedent named Respondent as a beneficiary for another retirement account owned.
9. Respondent's representatives claim that Respondent agrees the survivor benefit should be passed on to the decedent's surviving five (5) children but Respondent is unable to pass on the benefit without violating Medicare rules.
10. Respondent's representatives claim that the Respondent is elderly, afflicted with serious long-term health diseases, and receiving hospice care at home.
11. Respondent's representatives admit that Respondent created a high-interest savings account at a local banking institution and deposited the survivor benefit in that account that lists all five (5) surviving children as the beneficiaries.
12. Respondent's representatives argue that Medicare will count the survivor benefit as an asset when calculating Respondent's estate, even if Respondent passed on the survivor benefit to decedent's surviving children; Respondent asked the Court for action that would prohibit Medicare from claiming the survivor benefit as an asset to pay for Respondent's long term care services.

13. Respondent's representatives argue that Respondent is unable to earn income in the amount of the survivor benefit that may be passed on to the decedent's surviving children.
14. Petitioner provided no facts to demonstrate that a contract existed between Petitioner and Respondent. Additionally, Petitioner provided no facts to demonstrate that Petitioner had rights as a beneficiary to her deceased parent's retirement account.
15. At the pre-trial hearing, the Petitioner withdrew her complaint because there is no remedy available to Petitioner under Oneida law and the Court lacks subject matter jurisdiction over this matter.

ANALYSIS

The Oneida Trial Court has subject matter jurisdiction over cases and controversies arising under Oneida laws. In this case, Petitioner provided no facts demonstrating that she was entitled to relief. In this case, Petitioner filed a contract dispute claim but provided no contract or identified any specific Oneida laws that Respondent violated. Here, Petitioner is seeking money from her deceased father's individual retirement account that was distributed as a survivor benefit to her father's mother because no beneficiaries were listed on the account. Petitioner is seeking an order requiring her grandmother to distribute the survivor benefit to Petitioner and her four other siblings. Additionally, Respondent seeks an order prohibiting Medicare from filing a claim to the survivor benefit to pay for long-term care services provided to Respondent.

Petitioner's claim has two parts. First, this is not a dispute to be resolved by the Oneida Court because this is a dispute between Petitioner and the pension fund over the fund's decision to distribute the survivor benefit to the Respondent. Because the pension fund is a private employer-sponsored retirement fund entity that was not created or established under Oneida Nation law and is not an enterprise owned or operated by the Nation, there is no remedy under Oneida law to resolve that dispute. Petitioner's dispute is over the pension fund's decision to distribute the survivor benefit to Petitioner's deceased father's mother. As a result, Petitioner will need to exhaust any remedies provided by the pension fund to appeal the fund's decision. Thus, this case must be dismissed.

Second, this is not a contract dispute between Petitioner and Respondent because there is no contract, written or verbal. In this case, Petitioner claims Respondent must distribute her

deceased father's survivor benefit to his five surviving children, but provides no contract, in writing or verbal, showing Respondent agreed to make this distribution. However, on Respondent's own initiative, Respondent created a savings account and deposited the survivor benefit in the account that lists each of the five surviving children as beneficiaries. Respondent admitted that the problem is that she is unable to distribute the surviving benefit without violating Medicare rules. Respondent is elderly and receiving in-home hospice care services that would be paid for from her estate when she passes. Respondent asked the Court for a ruling that would prevent Medicare from making a claim to the surviving benefit. Because no remedy is provided under Oneida law that would allow the Court to exempt the survivor benefit from Medicare's recovery rules, Petitioner made a motion to withdraw her claim. Thus, the Court found Petitioner's request reasonable and granted the motion to dismiss the claim without prejudice.

PRINCIPLES OF LAW

Title 8. Judiciary - Chapter 801

801.5-2. *Subject Matter Jurisdiction.* The Tribe is a sovereign nation and reserves all sovereign rights, authority and jurisdiction consistent with being a sovereign nation. The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following:

- (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction.
- (b) the Constitution.
- (c) where an agency has denied a person a benefit or has provided a person with an incorrect or incomplete benefit, or has imposed a fine on a person, and the person has exhausted the process provided by law, if any, for review of the action, and
 - (1) a hearing body has not been designated by law for the purpose of an appeal; or
 - (2) there is no law providing that the agency's decision is final and/or not appealable.
- (d) where a disagreement over the terms, interpretation or enforcement of a written contract, where at least one (1) of the parties is an agency or where both parties meet the personal jurisdiction requirements listed in 801.5-4.
 - (1) Statute of Limitations. In all cases requiring interpretation or enforcement of a contract, the suit must be filed within twenty-four (24) months of either:

- (A) the date a party breaches the terms of the contract; or
- (B) in actions for declaratory relief, the date a dispute arises as to the interpretation of the contract.

(e) where a declaratory judgment is sought to determine the validity of a Tribal law. The Trial Court shall render a declaratory judgment in such action only when it appears from the petition and the supporting evidence that the law or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the petitioner. The Trial Court shall declare the law invalid if it finds that:

- (1) the law violates Constitutional provisions; or
- (2) the law was adopted without compliance with law making procedures required under Tribal law.

(f) small claims actions where the amount in controversy is five thousand (\$5,000) or less.

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

803.9-8. Waiving and Preserving Certain Defenses

(c) Lack of Subject-Matter Jurisdiction. If the Court determines at any time that it lacks subject-matter jurisdiction, the Court shall dismiss the action.

803.21. Dismissal of Action

803.21-1. Voluntary Dismissal.

(b) By Court Order; Effect. Except as required in Rule 803.21-1(a)(1), an action may be dismissed at the plaintiff's request only by Court order, on terms that the Court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (b) is without prejudice.

ORDER

This case is dismissed, without prejudice.

The parties have the right to appeal within 30 calendar days in accordance with the Nation's laws.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council, this Order was signed on January 25, 2024.



Patricia Ninham Hoeft, Trial Court Judge