

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Oneida Nation
Comprehensive Housing Division
Petitioner,

v.

Case No: 24-TC-007

Dean C. Van Boxtel
Respondent.

ORDER

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

Background

Petitioner filed a foreclosure complaint to the Trial Court on May 9, 2024. Petitioner is seeking to foreclose on Respondent's property for defaulting on mortgage payments pursuant to the Mortgage Agreement and Loan Agreement to Consumer Universal Note. A pre-trial Foreclosure hearing is scheduled for June 11, 2024, at 1:30 p.m.

Principles of Law

8 O.C. Judiciary – Chapter 803: Rules of Civil Procedure

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.

Analysis

Pursuant to 8 O.C., section 803.21, the Petitioner may request to dismiss an action, but only by court order, upon the Court considering the terms proper. On June 11, 2024, Petitioner motioned to dismiss this case due to Respondent is no longer delinquent on mortgage payments. The Court considers these terms proper.

Order

1. The Court GRANTS Petitioner's motion to dismiss this case.
2. The Court shall remove the June 11, 2024, pre-trial hearing from the Court's calendar.

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 June 11, 2024.



John E. Powless III, Trial Court Judge