

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Amanda Clark
Petitioner,
v.

Case No: 24-TC-011

Oneida Comprehensive Housing Division
Respondent.

ORDER

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

Background

On July 5, 2024, Petitioner filed a complaint to the Oneida Nation Trial Court seeking to remain in her rental unit at N 6457 Evergreen Drive, Oneida, Wisconsin 54155. The Petitioner identified Chapter 610: Eviction/Termination and Chapter 611: Landlord/Tenant apply to her complaint. A pre-trial hearing was held on Wednesday, July 17, 2024, at which time Petitioner motioned to continue this hearing to obtain legal representation and Respondent declined to participate in Peacemaking. A secondary pre-trial hearing was held on August 7, 2024, at which the Petitioner motioned the Court for additional time to secure representation. An additional pre-trial hearing was held August 20, 2024, which the Court ordered a scheduling order, as a result, a final hearing was scheduled for Tuesday, September 10, 2024. On September 3, 2024, the parties filed Motions to Dismiss this case. On September 10, 2024, the final hearing time was used as a hearing on the motions.

Principles of Law

8 O.C. Judiciary – Chapter 801: Judiciary Law

801.6-2. A Judge of the Trial Court shall inform the parties of every case of the availability of peacemaking and mediation to resolve their dispute and, except where prohibited by law, may refer the parties to peacemaking or mediation if the parties agree to attend peacemaking or mediation.

6 O.C. Property and Land – Chapter 611; Rule #2: Income Based Rental Program Eligibility, Selection and Other Requirements.

2.4. Eligibility Requirements

2.4-4. Outstanding Debts. Applicants for a rental agreement may not have a past due balance greater than two hundred dollars (\$200) owed to any utility provider and may not have any prior

debt owed to the Comprehensive Housing Division.

Analysis

On August 20, 2024, the Court ordered a scheduling order that identifies the parties may file motions on or before September 3, 2024. In this case, the parties filed Motions to Dismiss. A motion hearing was held on September 10, 2024.

Petitioner's Motion

Petitioner claims she should be allowed to stay in the unit because Petitioner alleged, she was denied the opportunity to submit her renewal application and outstanding rent on Friday, June 28, 2024, and Monday, July 1, 2024. Additionally, Petitioner stated that Peacemaking is a traditional process used to resolve disputes. This process also prohibits attorney or advocate participation. Petitioner stated because the Respondent is unnamed, Respondent should first be identified and second, respond to Petitioner's request for Peacemaking, as opposed from counsel.

On May 7, 2024, Respondent served notice to Petitioner regarding her Ineligibility Rental Agreement Renewal – Notice to Reinstate Eligibility or Vacate by certified mail. This notice states on April 1, 2024, Petitioner was provided an Annual Renewal Packet that requires Petitioner to submit the necessary information for Respondent to determine Petitioner's continued eligibility for the Income Based Rental Program and establish a Renewal of the Rental Agreement. The notice also identified that currently, Petitioner is no longer eligible because Petitioner has not submitted her Annual Renewal Packet information to the Comprehensive Housing Division (CHD), therefore, CHD is unable to determine Petitioner's continued program eligibility. Additionally, this notice stated Petitioner has outstanding debt owed to utility providers above \$200.00 and past due rent owed to CHD in the amount of \$1,081.00. This notice identified that Petitioner's current rental agreement with CHD expires July 1, 2024, and that this letter serves as a thirty (30) calendar day notice from the date of this letter to reinstate eligibility for the Income Based Rental Program. For Petitioner to reinstate eligibility for the Income Based Rental Program, Petitioner is required to submit all verified household income, copy of all utility bills, completed and signed renewal application, a zero-rent balance, and proof that Petitioner's utilities balance is at or below \$200.00, by June 30, 2024. Respondent states Petitioner is not eligible for a rent repayment agreement as she had already entered one at 2023 renewal. If Petitioner's eligibility is not reinstated by June 30, 2024, Petitioner will be evicted from the unit with the locks being changed during normal business hours on July 1, 2024. As a result of Respondent's allegation that Petitioner did not comply with requirements outlined in the May 7, 2024, notice, Petitioner was provided Respondent's notice to reclaim the unit on July 1, 2024.

Here, Respondent's May 7, 2024, notice, states Petitioner's rental agreement with CHD will expire on July 1, 2024, and that this letter serves as notice to Petitioner, providing her a minimum of thirty (30) calendar days from the date of this letter to reinstate eligibility for the

Income Based Rental agreement. Petitioner acknowledged she was in the CHD office around 4:15 p.m. on Friday, June 28, 2024, but was barred from submitting her renewal application and paying her past due rent. Petitioner also acknowledged she attempted to submit her renewal application and pay rent on Monday, July 1, 2024, but was again denied.

Respondent's evidence identifies Petitioner came into the CHD office on June 28, 2024, to pay past due rent. The total amount owed was \$631.00, which she paid \$150.00, leaving a balance of \$481.00. CHD case notes identify Petitioner also came into the office on July 1, 2024, to pay the remaining \$481.00, but was informed her last day to submit payment was June 28, 2024. The Respondent also identified that Petitioner is aware of the CHD drop box, as Petitioner stated she has used the box in the past. Because June 30, 2024, fell on a Sunday, the Petitioner could have turned in her renewal application and past due rent in the box prior to July 1, 2024, but chose not to. As a result, on July 1, 2024, Respondent provided notice to Petitioner that CHD is reclaiming her unit.

The Court finds that based on presented evidence and testimony, Petitioner was not barred from making her rent payment on Friday, June 28, 2024, as she made a \$150.00 payment on that same day. Neither was Petitioner prevented from submitting her renewal application or remaining rent prior to July 1, 2024, by using the CHD drop box. To the contrary, the Court is compelled to note that statements made by CHD to Petitioner were misleading, which may add confusion to an already stressful situation. Respondent's case notes state on July 1, CHD informed Petitioner that her last day to submit payment was June 28, 2024. This statement is inaccurate, misleading, and if successfully argued, this argument could equate to harm.

Petitioner's motion alternatively asks the Court to remand the hearing for Peacemaking with the appropriately named Respondent. Respondent's answer is that Peacemaking is a voluntary process that cannot be ordered or mandated by the Court. Petitioner also argued because the Respondent is not named, the Court should treat Attorney John's communication to the Court that Mr. Scott Denny of CHD has declined to participate in Peacemaking as hearsay. Attorney John states her notice of representation for Respondent is for the organization, not an individual. Respondent stated it is Petitioner's obligation to name parties. The Petitioner had the opportunity to request an individual be named, and further ask the Court to require such attendance to the hearing in Petitioner's Amended Complaint. Also, Attorney John's notice of representation does not limit her ability to speak on behalf of the Nation or CHD in any matter and Petitioner has not identified any laws stating such. Last, Respondent stated the Court has already made a ruling as to Petitioner's initial request that the Court order Peacemaking. The Court agrees with Respondent. At a previous hearing, the Court made a ruling that in accordance with the Judiciary Law, 801.6, Peacemaking cannot be ordered or mandated, therefore, Petitioner's request that the Court order Peacemaking was denied. The Court's ruling still stands, therefore, Petitioner's request for Peacemaking is inappropriate because it has already been decided and Respondent

has not indicated they have changed their position as to participating in Peacemaking.

Respondent's Motion

Respondent states this complaint should be dismissed based on a failure to state a claim upon which relief can be granted. Respondent argues evidence in this case demonstrates that the deadline for Petitioner to re-establish her eligibility that would allow her to continue to reside in her unit was Friday, June 28, 2024, by 4:30 p.m. At the motion hearing, Respondent clarified that Friday, June 28, 2024, was the last in-person opportunity for Petitioner to submit her renewal application, pay outstanding rent and provide proof that her utilities are below a \$200.00 balance. Respondent claims Petitioner did not meet the deadline when she attempted payment on the morning of July 1, 2024, as a result, a notice to reclaim the unit was issued to Petitioner on Monday, July 1, 2024.

Petitioner alleges she was not allowed to submit her renewal application, pay outstanding rent, and provide proof her utilities are at a balance of \$200.00 or less, to Respondent by June 30, 2024. Respondent states because Petitioner did not comply with Respondent's Ineligibility Rental Agreement Renewal – Notice to Reinstate Eligibility or Vacate, Respondent has the legal authority to evict Petitioner. This notice identified that Petitioner's current rental agreement with the CHD expires effective July 1, 2024, and this letter serves as notice providing Petitioner thirty (30) calendar days from the date of this letter to reinstate eligibility for the Income Based Rental Program.

As earlier stated, evidence and testimony show Petitioner paid \$150.00 toward her outstanding rent of \$631.00 to CHD on Friday, June 28, 2024, and attempted to submit her renewal application and outstanding rent to CHD on July 1, 2024. Petitioner also confirmed that she is aware of CHD's drop box, which is an acceptable method to submit documents or make payments when a deadline falls on a weekend. Petitioner further confirmed she has used the drop box in the past. Even though Petitioner has used the drop box, she chose not to use it this time because she does not trust it. As a result of Petitioner's alleged non-compliance, Respondent served notice to Petitioner that CHD's is reclaiming the unit on July 1, 2024.

In summary, Respondent alleges Petitioner has not provided any violation of Oneida law that would justify not dismissing this claim, this Court agrees. Petitioner's claim that she was not allowed to submit her renewal application or pay outstanding rent before July 1, 2024, is incorrect. Evidence shows Petitioner paid \$150.00 towards her rent on Friday, June 28, 2024, and chose not to utilize the drop box alternative payment method which resulted in Petitioner's non-compliance of submitting her renewal application and payment of outstanding rent before July 1, 2024. For these reasons, this Court is agreeable to Respondent's Motion to Dismiss.

Finding of Facts

1. The Court has personal and subject matter jurisdiction over this matter.
2. Notice was given to all entitled to notice.
3. The parties filed Motions to Dismiss on September 3, 2024.
4. A Motion Hearing was held on September 10, 2024.
5. Petitioner did not deny receiving CHD's Ineligibility Rental Agreement Renewal – Notice to Reinstate Eligibility or Vacate Notice, dated May 7, 2024.
6. Petitioner paid \$150.00 to CHD for outstanding rent on Friday, June 28, 2024.
7. Petitioner acknowledged she utilized the CHD drop box in the past, which is an alternative method to submit documents or make a payment on the weekend.
8. The Court previously ruled that the Court cannot order or mandate parties to participate in Peacemaking.
9. Peacemaking is a voluntary process and one of the duties of an attorney is to speak to the Court on behalf of the client. As such, the attorney may answer the question about participating in Peacemaking.
10. Petitioner did not re-establish her eligibility to reside in her unit before July 1, 2024.
11. Petitioner did not pay all outstanding rent before July 1, 2024.
12. Petitioner did not identify a violation of Oneida Nation law, committed by Respondent in this matter.

Order

1. Petitioner's Motion To Dismiss is DENIED.
2. Respondent's Motion To Dismiss is GRANTED with prejudice.
3. Petitioner is ordered to remove all personal belongings from the rental unit no later than eight (8) business days from the date of this order.

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 September 23, 2024.


John E. Powless III, Trial Court Judge