

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Paulette L. Leschig
Petitioner,

v.

Oneida Comprehensive Housing Division
Respondent.

Case No: 24-TC-014
Date: March 26, 2025

ORDER

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

Appearing in-person: Petitioner's Attorney, Gerald L. Hill; Respondent's Attorney, Krystal L. John.

Non-Appearance: Petitioner, Paulette L. Leschig.

Background

On October 25, 2024, Petitioner filed a complaint to the Trial Court seeking to overturn Respondent's decision to evict Petitioner from the income-based rental unit at N6420 Evergreen Drive, Oneida, Wisconsin 54155. At a pre-trial hearing on November 25, 2024, the parties agreed to exchange discovery, on the condition the parties will not call witnesses. The parties agreed discovery will be due on or before Friday, December 13, 2024, by 4:00 p.m. On November 26, 2024, the Respondent motioned the Court to extend the time to submit pre-trial motions from December 13, 2024, to December 17, 2024, and the Court agreed. On December 13, 2024, Attorney Gerald L. Hill filed a notice of representation to represent the Petitioner. On December 13, 2024, prior to the 4:00 p.m. discovery deadline on that same day, Attorney Hill motioned the Court to amend the scheduling order by requesting additional time for discovery and a new contested trial date to allow time to prepare for this case. On December 16, 2024, the Respondent filed a response to Petitioner's motion. At the pre-trial hearing on January 10, 2025, Attorney Hill verbally motioned to withdraw from his legal representation of the Petitioner. On January 14, 2025, Petitioner motioned the Court for a Continuance of the final hearing scheduled for Friday, January 17, 2025, which the Court agreed. On January 20, 2025, Respondent motioned for a Continuance, which the Court also agreed. The parties agreed to re-schedule the

Final Hearing to Thursday, February 13, 2025. On February 4, 2025, Petitioner filed subpoenas for Mark W. Powless, Marsha Skenandore, Brandon Lawrence and Lee McLester. On January 31, 2025, Respondent filed a motion to Quash Petitioner's subpoenas for Powless, Skenandore, Lawrence and McLester. As a result, the Court postponed the February 13, 2025, final hearing date and instead held a motion hearing regarding Petitioner's argument that good cause exists as to why the additional submission for witnesses exceeded the January 3, 2025, discovery deadline and Respondent's motion to quash Petitioner's subpoenas. The parties' legal representatives agreed to re-schedule the final hearing to February 27, 2025.

Issue

Does Respondent have the authority to decline Petitioner's Rental Agreement Renewal for alleged non-compliance of the Landlord-Tenant Rule #2, 2.4-3 and 2.4-4, therefore, not in the best interest of the Nation.

Principles of Law

Title 6. Property and Land – Chapter 611: Landlord-Tenant

2.4 Eligibility Requirements

2.4-3. *Minimum Income.* Applicants shall meet a minimum household income of \$7,800 per year.

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.

2.8-5. *Rental Agreement Renewal.* Each rental agreement is limited to a twelve (12) month term. Tenants wishing to remain in the property are required to complete the annual rental agreement renewal by verifying that the household continues to meet all eligibility requirements contained in the Landlord-Tenant law and rules excluding the maximum income requirement provided in article 2.4-2. Once continued eligibility is verified, tenants that remain eligible are required to sign a rental agreement renewal.

(a) The Comprehensive Housing Division may, in its discretion, decline renewal of a rental agreement if it determines that the renewal is not in the best interest of the Nation.

(b) In the event a tenant fails to enter a rental agreement renewal and has not vacated the rental premises within thirty (30) calendar days of the expiration of the rental agreement, the Comprehensive Housing Division shall initiate the eviction process pursuant to the Eviction and Termination law.

2.8-6. *Ineligibility Due to Renewal or an Update of Household Information.* Comprehensive Housing Division staff shall provide tenants that become ineligible to participate in the income-based rental program based on a renewal or update of household information with notice specifying the cause of the ineligibility and, if possible, how the household *may* reinstate eligibility.

(a) Ineligibility Due to Renewal. In circumstances where the tenant learns of ineligibility as part of the annual renewal, Comprehensive Housing Division staff shall include in the notice of ineligibility that renewal of the rental agreement is not available at such time and that the tenant is entitled to a minimum of a thirty (30) day notice to cure, by reinstating eligibility, or vacate.

(b) Ineligibility Due to an Update of Household Information. In circumstances where the tenant learns of ineligibility as part of an update of household information, Comprehensive Housing Division staff shall include in the notice of ineligibility the warning of potential termination in accordance with the rental agreement. In the event the tenant is unable to or fails to reinstate their eligibility in accordance with the timeline provided in the notice, the Comprehensive Housing Division shall permit the tenant to remain in the unit for the longer of the duration of the rental agreement or ninety (90) calendar days from the date of the notice of ineligibility.

(1) If the tenants' circumstances result in the tenant completing the term of the rental agreement, eligibility shall be reconsidered at the time of the annual renewal. If the tenant remains ineligible at the time of renewal, article 2.8-6(a) applies.

(2) If the tenants' circumstances result in the tenant receiving a thirty (30) calendar day notice to cure or ninety (90) calendar day notice to vacate, the tenant shall enter a limited term rental agreement to cover any time which exceeds the current rental agreement.

(c) Limited Term Rental Agreements. Limited term rental agreements are available in accordance with article 2.8-6(a) and (b) of these rules and section 611.9-4 of the Landlord/Tenant law. At a minimum, limited term rental agreement shall include: (1) The date of the original notice of ineligibility; (2) An explanation that the tenant has thirty (30) calendar days to reinstate eligibility; (3) As applicable, an explanation that if eligibility is not timely reinstated, that the limited term rental agreement takes the place of the thirty (30) calendar day notice to cure or vacate required by the Eviction and Termination law; and (4) An explanation that if eligibility is not timely reinstated, the rental unit will be reclaimed including the date the locks will be changed

Analysis

On October 25, 2024, Petitioner filed a complaint to the Trial Court seeking to overturn the Respondent's decision to evict Petitioner from the income-based rental unit. The Petitioner states her eviction is unjust because 1) Respondent did not extend Petitioner's rental renewal process to allow for the parties to collectively resolve disputed areas, such as the minimum income requirements, rental and utilities arrears, 2) Respondent does not have the ability or authority to determine that because of Petitioner's actions, Respondent can assess on behalf of the Nation that it is in the best interest of the Nation to sever the landlord/tenant relationship with Petitioner, and 3) Petitioner is the type of tenant Respondent should be working with, she has been a tenant of Comprehensive Housing Division (CHD) for over fifteen (15) years, all of

which, up till now, has successfully renewed her rental application and has shown to work with Respondent to problem solve disputed areas.

Request for Remand: Rule #2 – Income Based Rental Program Eligibility, Selection and Other Requirements

In accordance with Rule # 2, section 2.8-5, a tenant may remain in the housing unit upon completing the annual rental agreement renewal by verifying the household continues to meet all eligibility requirements identified in the Landlord-Tenant law. Each rental agreement is limited to a twelve (12) month period. Upon verification of the tenant's continued eligibility, the tenant is required to sign a rental agreement renewal. If it is determined the renewal is not in the best interest of the Nation, the Comprehensive Housing Division may, in its discretion, decline renewal of the rental agreement. Here, the Petitioner argues this situation could have been diverted if Respondent extended the time frame for Petitioner to complete her rental renewal application. By allowing more time, the parties could have collectively resolved the following disputed areas: minimum income requirements, rental arrears, and utilities. The Petitioner admits she had rental and utility arrears at the time of this filing, but that only the rental arrears are relevant. The Petitioner concludes that she has been a tenant of the CHD for over fifteen (15) years and has routinely met all eligibility requirements every year.

The Respondent argues laws, standards, and rules govern Respondent's actions, specifically, Rule # 2, section 2.8-5(a), which consists of a Rental Agreement Rule that governs the program the Petitioner participated in. Respondent argues that by failing to complete the annual rental agreement renewal application, the Petitioner does not meet the eligibility requirements, therefore, no longer eligible to participate in the program and reside in the unit. Respondent further states Petitioner's non-compliance with Rule # 2, section 2.4-3, *Minimum Income* and section 2.4-4, *Outstanding Debts* also leaves Petitioner ineligible for this program. As a result, Respondent is seeking an immediate lift to the stay on the eviction, which Petitioner will have fifteen (15) business days from when the locks are changed to remove her belongings and submit updated income verification, and dismissal of all other claims.

The Court first assesses the rule and sections that Respondent argues governs Petitioner's alleged non-compliance. Section 2.4-3, *Minimum Income* states applicants shall meet a minimum household income of \$7,800.00 per year. Here, upon a thorough review of the record, in September 2023, Petitioner notified Respondent that she is no longer employed. Over the next

year, Petitioner reported to Respondent that she has applied and interviewed for multiple employment positions and is in the process of starting her own business. The record further reflects Respondent requested employment income and financial academic award letter of Petitioner's adult children. Petitioner supplied documentation to Respondent that her adult son was not working due to a motorcycle accident. Petitioner also does not dispute the fact she failed to provide household income verification and academic award letter to Respondent, except for Petitioner's August 2024 income. Petitioner requests the Court remand this case and order the parties to work out an agreement to resolve Petitioner's minimum income non-compliance. Respondent argues because the Petitioner does not meet section 2.4-3 and has had ample opportunity to address, the Petitioner's request must be denied. This Court agrees, Petitioner has had ample time and opportunity to address the minimum income non-compliance with Respondent prior to this action, therefore, Petitioner's remand request must be denied.

Next, section 2.4-4, *Outstanding Debts* states to remain eligible for an income-based rental agreement, applicants 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 CHD. Here, Petitioner admits to possessing a utility balance that exceeds \$200.00 and asks the Court to remand this case to allow Petitioner additional time to comply with section 2.4-4. Respondent states at the time of this filing, Petitioner's past due balance to We Energies utilities was \$908.25 and a balance of \$317.59 was owed to Oneida Utilities, which the Petitioner did not refute. Respondent further states Petitioner had from August 1, 2024, to October 1, 2024, to comply with Rule #2, section 2.4-4. Because Respondent has shown Petitioner is not compliant with section 2.4-4 and has had the opportunity to comply with section 2.4-4, the Petitioner's remand request must be denied.

In conclusion, Petitioner is asking the Court to remand this case back to the parties to resolve Petitioner's non-compliance. Respondent states this is a "late come claim" as Petitioner had ample opportunity to find out the amount owed to Respondent and/or submit a completed rental renewal application consisting of income verification and means to address rental and utility arrears. Respondent further states Petitioner admits to rental and utility arrears and does not contest lack of income verification. Last, Respondent concludes that Petitioner did not identify any violation of law made by Respondent, any untimely notice made to Petitioner, any negligence made by Respondent regarding any negotiation or pending notice to Petitioner. The

Court agrees with Respondent in that Petitioner had ample opportunity to comply with minimum income requirement, rental and utility non-compliance, therefore, Petitioner's request for remand is denied.

The Best Interest of the Nation

Rule #2, section 2.8-5(a), *Rental Agreement Renewal* states CHD has discretion to decline the renewal of a rental agreement if determined that renewal is not in the best interest of the Nation. In this case, Petitioner alleges Respondent's usage of this law is not factually supported. Respondent argues this law provides CHD the discretion to decline the renewal of a rental agreement if the decision is not in the best interest of the Nation.

The Court finds in accordance with Rule #2, section 2.8-5(a), that CHD does have discretion to decline the renewal of a rental agreement if it is in the best interest of the Nation. CHD must, however, justify why the decision to not renew a rental agreement is in the best interest of the nation. Here, Respondent asserts their authority as subject matter experts in rental real estate enables them to make such a determination and that the decision to not renew Petitioner's rental application is due to the "totality of circumstances." Respondent associates the "totality of circumstances" as Petitioner's non-compliance of meeting the minimum income requirements, rental and utility arrears, and alleged hostile behaviors toward CHD administrative and maintenance staff. Respondent also argued it is imperative that Petitioner updates the CHD of any income adjustments because the housing program Petitioner participated in is operated by Federal funding, and a failure to do so, could jeopardize CHD's participation in the program for failure to follow program rules and laws. Also, considering CHD's "Non-Renewal of Rental Agreement – Notice to Vacate" dated October 1, 2024, indicates Petitioner was notified on August 2, 2024, of all the renewal requirements subject to this case. This gave Petitioner fifty-nine (59) days to work with CHD to resolve these issues before her rental agreement expired on November 1, 2024. Petitioner, however, did not do so.

Furthermore, in accordance with the Landlord-Tenant law, Rule #2, section 2.8-6, CHD shall provide tenants who become ineligible in the income-based rental program based on a renewal or update of household information with notice specifying the reason for ineligibility, and *if possible*, how the household may reinstate ineligibility. Rule #2, section 2.8-6(a) further states when a tenant learns of ineligibility as part of the renewal, CHD's notice of ineligibility shall include that renewal of rental agreement is not available at such time and the tenant is

entitled to a minimum of a thirty (30) day notice to cure, by reinstating eligibility, or vacate. In this case, Respondent made the decision that based on the “totality of circumstances,” it is not possible to allow Petitioner the opportunity to reinstate eligibility. As a result, Respondent properly provided Petitioner notice of ineligibility and provided a thirty (30) day notice to vacate. In conclusion, to allow a tenant to remain in a unit when the tenant no longer meets the eligibility requirements and has failed to provide or update information to become eligible violates the Nation’s Rules and is not in the best interest of the Nation to renew such lease. Thus, the eviction must be upheld.

Dismissal

At the final hearing, Respondent is asking for a dismissal of the claims brought forth by Petitioner, pursuant to 803.9-2, failure to state a claim for which relief can be granted. The request for a dismissal of Petitioner’s claims is only subject to this Court, it does not bar Petitioner from exercising her right to appeal. Respondent further states Petitioner is asking for a remedy that is not available to this Court. Respondent asserts since CHD has followed all rules and satisfied all requirements within the law; no grounds can exist for a stay on the eviction. The Petitioner argues the question before the Court is whether Respondent has the authority to interpret the law to find a tenant to be unworthy of tribal housing services and an eviction should be based on facts not a party’s opinion. For the reasons stated in the previous sections above, the Court finds CHD does have the authority and discretion in making such determinations.

Finding of Facts

1. The Court has personal and subject matter jurisdiction over this matter.
2. Notice was provided to all entitled to notice.
3. On October 25, 2024, Petitioner filed a complaint with the Trial Court seeking to overturn Respondent’s decision to evict Petitioner from the income-based rental unit at N6420 Evergreen Drive, Oneida, Wisconsin 54155.
4. On November 25, 2024, a pre-trial hearing was held, and the Court issued a written scheduling order. At the pre-trial hearing,
 - a. Petitioner appeared pro se.
 - b. The parties agreed to a discovery schedule that would close on December 13, 2024, by 4:00 p.m.
 - c. The parties agreed they would not call witnesses; and

- d. The parties agreed to conduct the trial on December 20, 2024, at 9:00 a.m.
5. On November 26, 2024, Respondent motioned the Court requesting the date to file pre-trial motions be extended because the scheduling order requires motions to be filed on the same day discovery closes.
6. On December 2, 2024, the Court issued an order granting Respondent's motion to modify the discovery schedule by setting December 17, 2024, as the date when motions must be filed and scheduling a pre-trial hearing on December 18, 2024.
7. On December 13, 2024, Petitioner filed the following two items:
 - a. A notice of representation identifying Attorney Gerald L. Hill as Petitioner's attorney; and
 - b. A motion seeking to modify the scheduling order to give her attorney time to prepare for her case and to withdraw her agreement to not call witnesses.
8. On December 16, 2024, Respondent filed a response to Petitioner's motion requesting any rescheduling would provide for the trial to be conducted no later than January 3, 2025, and to order Petitioner to execute a limited-term rental agreement for the pendency of the litigation.
9. On December 17, 2024, the Court issued an order to modify the scheduling order for the second time. This version of the scheduling order was to accommodate the time needed for Petitioner's attorney to prepare her case. Key dates in the modified scheduling order are as follows:
 - a. discovery closes on January 3, 2025.
 - b. pre-trial motions must be filed by January 7, 2025.
 - c. a pre-trial hearing will be conducted on any motions on January 10, 2025; and
 - d. the trial will be conducted on January 17, 2025.
10. On January 3, 2025, Petitioner filed a witness list naming three (3) individuals she intended to present at the trial.
11. On January 10, 2025, the Court denied Attorney Hill's motion to withdraw from his legal representation of Petitioner.
12. Between the dates of January 14, 2025, to January 23, 2025, the Court received two (2) separate motions for continuance for the final hearing.

- a. On January 14, 2025, the Court granted Petitioner's motion for continuance, rescheduling the final hearing to January 21, 2025.
 - b. On January 20, 2025, the Court granted Respondent's motion for continuance and ordered parties to agree upon a final hearing date by January 24, 2025.
 - c. On January 23, 2025, the parties agreed to reschedule the final hearing date to February 13, 2025.
13. On January 31, 2025, Respondent filed a motion asking the Court to quash subpoenas issued by Petitioner to four (4) individuals to require them to appear as witnesses at the trial.
14. On February 4, 2025, Petitioner filed affidavits of service with the Court showing that Petitioner issued subpoenas to four (4) individuals.
15. On February 6, 2025, the Court issued an order to postpone the February 13, 2025, trial and use that date to hold a pre-trial hearing on Petitioner's argument that good cause exists as to why the additional submission for witnesses exceeded the January 3, 2025, discovery deadline and Respondent's motion to quash Petitioner's subpoenas.
16. At the pre-trial hearing on February 13, 2025, the parties presented the following arguments:
 - a. Petitioner argued the additional witnesses were part of her original list of witnesses she wanted to call to testify at the trial, but she agreed with her legal counsel's advice to remove the individuals from the witness list that was filed by Petitioner on January 3, 2025, before discovery closed.
 - b. Petitioner argued subpoenas were served to call additional individuals as witnesses because she questioned the legal advice from her attorney.
 - c. Petitioner also argued she understood the Court's direction in a prior pre-trial hearing as giving Petitioner approval to subpoena additional witnesses.
 - d. Respondent argued that Petitioner misunderstood the Court's direction; Respondent said the Court was notifying the Petitioner that the individuals listed on Petitioner's January 3, 2025, witness list still needed to be notified, by subpoena, that Petitioner was requiring them to appear as witnesses.
17. Petitioner signed and submitted the 90-day limited term rental agreement to the Comprehensive Housing Department before 4:30 p.m. February 13, 2025.

18. After the motion hearing, the parties' legal representatives agreed to reschedule the trial to February 27, 2025, at 9:00 a.m.


19. At the final hearing, Petitioner declined to call witnesses, admitted to failing to submit income verification, and having rental and utility arrears at the time of this filing.

Order

1. The eviction is upheld.
2. The Petitioner must vacate the premises located at N6420 Evergreen Drive, Oneida, WI 54155, by Friday, April 25, 2025, at 11:59 p.m., when the locks will be changed.
3. If Petitioner is unable to remove all personal property from the premises by Friday, April 25, 2025, Petitioner shall have until Friday, May 16, 2025, by 2:30 p.m. to remove any remaining personal property. Petitioner is responsible for calling the Oneida Comprehensive Housing Division to schedule times to access the premises for the removal of remaining personal property.

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 March 26, 2025.


John E. Powless III, Trial Court Judge