

IN THE
HO-CHUNK NATION SUPREME COURT

Ho-Chunk Nation Department of Housing
Property Management Division,
Appellee,

DECISION

v.

SU 00-10

Sarah Dobbs,
Appellant,

Heard before Chief Justice Mary Jo B. Hunter presiding, Associate Justice Rita A. Cleveland and Associate Justice Debra C. Greengrass.

This matter comes before the Ho-Chunk Nation Supreme Court on the *Notice of Appeal* filed by the *pro se* Appellant on July 24, 2000 and Appellant's *Motion for Waiver of Filing Fees*. The Court accepted the matter for appeal waiving the filing fee and issued a Scheduling Order on August 5, 2000. The Appellee filed an *Answer to Appeal of Judgement* on August 3, 2000. On October 4, 2000 the Court issued an Extension Order requesting additional time to render a decision absent the parties supporting briefs. The Appellant is appealing the Trial Court Judgement, CV 00-16, filed June 23, 2000 disputing the amount that the Ho-Chunk Nation (hereinafter HCN) Department of Housing claims she owed and for property left abandoned. On October 16, 2000 the Court issued an Order (Staying of Judgement) pending a final decision from this Court. The Court reviewed the Trial Court record, Appellant's *Notice of Appeal* and Appellee's *Answer to Appeal of Judgment*. The HCN Supreme Court hereby AFFIRMS in part and REVERSES in part the Trial Court Judgement in CV 00-16.

I. DID THE TRIAL COURT PROPERLY ASSESS MONIES OWED THE NATION

On June 21, 2000, the Trial Court held a second hearing on the housing dispute case to assess the amount that Sarah Dobbs owed the Department of Housing for breach of a lease agreement and damages. Attorney Elaine Smith represented the HCN Department of Housing and Ms. Dobbs failed to appear, upon proper notice, to dispute the amount of indebtedness. Judge Butterfield, in assessing monies owed the Nation, relied on the HCN Department of Housing's Exhibit 2 that was offered by the Property Management Division. The Plaintiff's Exhibit 2 is a *Security Deposit Settlement* statement outlining the amount owed. Ms. Dobbs failed to appear to refute the amount. The Trial Court ruled that the appellant Ms. Dobbs owed the Property Management Division an amount of \$6,193.38 plus interest. See Plaintiff's Exhibit 2.

In her *Notice to Appeal* Ms. Dobbs disagreed with the amount that the HCN Department of Housing claims she owed. The Appellant Dobbs failed to provide the Court with documentation to contrary. In the *Answer to Appeal of Judgment*, the HCN Department of Housing denied the amount shown in the *Judgment* is incorrect and submitted a spreadsheet of Sarah Dobbs' rental payment history from June 1, 1996 through May 2000. See Appellee's *Answer*. The rental payment history spreadsheet shows that the Appellant owed \$6,243.38. There is a \$50.00 discrepancy between the amount of \$6,193.38 on the *Security Deposit Settlement* statement and the amount ordered in the *Judgment*. See Appellee's *Answer*, Plaintiff's Exhibit 2, and Judgment at 2. However the \$50.00 difference is to the Appellant Dobbs benefit. The HCN Supreme Court hereby AFFIRMS the Trial Court *Judgment* of \$6,193.38 plus interest owed the HCN Department of Housing.

II. DID THE TRIAL COURT PROPERLY ALLOCATE A REASONABLE PAYMENT PLAN

The Appellant acknowledged indebtedness to the Property Management Division and is in agreement to pay five hundred dollars (\$500.00) starting November 2000 until paid in full. The Appellee's stated in their *Answer* that they are in agreement with placing the Appellant on a payment plan of \$750.00 to be deducted from Ms. Dobbs Per Capita Distribution. The Appellee's are also in agreement to a lesser payment to be deducted from approximately eight (8) of Ms. Dobbs Per Capita Distributions. It appears to this Court that both parties on appeal are willing to enter into an agreement on payment of the indebtedness to the Nation.

The *Judgment* orders an amount of \$6,193.38 plus interest to be intercepted from four (4) of Ms. Dobbs Per Capita Distributions. The *Judgment* of \$6,193.38 plus interest is a substantial amount when divided by four (4) Per Capita payments would clearly take a majority of Ms. Dobbs Per Capita Distribution. Ms. Dobbs is a single parent, currently unemployed and indigent at all time of her filing the *Notice of Appeal*. The *Judgment* would put a great financial burden on the Appellant who is currently relying on her Per Capita Distribution as her sole source of income. The governing law, the HCN Claims Against Per Capita Shares, Section 103, does not state a maximum amount the Nation can withhold for debts owed the Nation. The HCN Supreme Court REVERSES the Trial Courts' Payment structure and REMANDS to the HCN Trial Court to conduct a hearing to determine what is a feasible payment plan without creating a great burden on the Appellants' who is an indigent tribal member financially dependant on her Per Capita Distribution. The Judgment did not provide an explanation as to why the calculation was made for the four interceptions.

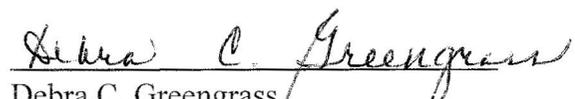
III. DID THE TRIAL COURT ADDRESS THE LOCATION OF PERSONAL PROPERTY.

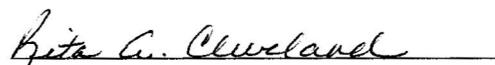
The third issue raised on appeal is the location of the Appellant's vehicle. Ms. Dobbs failed

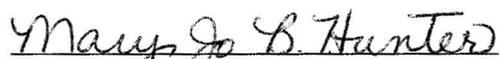
to appear for the Trial Court hearing to address her concerns. The personal property abandoned by the Ms. Dobbs is not an issue before this Court.

The HCN Supreme Court hereby AFFIRMS the Judgment in CV 00-16 in part and REVERSES in part for REMAND to the HCN Trial Court for the determination and finding on the appropriate payment plan for the parties.

EGI HESKEKJET. Dated this 24th day of October 2000.


Debra C. Greengrass
Associate Justice


Rita A. Cleveland
Associate Justice


Mary Jo B. Hunter
Chief Justice
HCN Supreme Court

CERTIFICATE OF SERVICE

I, Missy J. Elk, Clerk of The Ho-Chunk Nation Supreme Court, do hereby certify that on the date set forth below I served a true and correct copy of the attached paper filed in Case No. SU-00-10 (CV 00-16) By the United States Postal Service, upon all persons listed below:

Sarah Dobbs
P.O. Box 641
Black River Falls, WI 54615

Elaine Smith
HCN Dept. of Justice
P.O. Box 667
Black River Falls, WI 54615

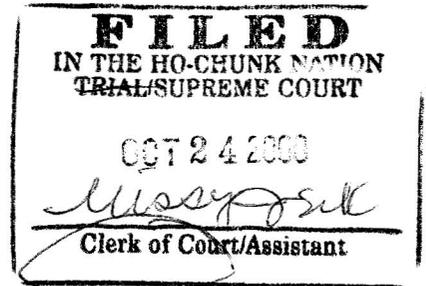
Department of Treasury
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Hon. Debra Greengrass
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Date: October 24, 2000

Missy J. Elk

Missy J. Elk, Clerk of Court
Ho-Chunk Nation Supreme Court