

SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS

COURT OF APPEALS

*Stephanie Wilson v. Larry Harris*

APP-2024-01

Issued: July 8, 2024

ENTERED  
7/9/24  
Sault Ste. Marie  
Chippewa Tribal Court of Appeals

BEFORE: BIRON, BUTTS, CORBIERE, and DIETZ Appellate Judges.

**OPINION**

in support of *Order* decided June 21, 2024

Butts, Robert, Appellate Judge, who is joined by Chief Appellate Judge Biron, and Appellate Judges Corbiere, and Dietz.

For the reasons explained below, the Sault Ste Marie Tribe of Chippewa Indians Tribal Court's *Judgment of Possession* dated February 14, 2024 is affirmed and the matter is dismissed.

***Facts and Procedural history***

On January 3, 2024, Larry Harris, Appellee, filed a Complaint for Non-payment of Rent (“*Complaint*”) with the Sault Ste. Marie Chippewa Tribal Court (“Tribal Court”) in accordance with Tribal Code, Ch. 83: Evictions and Foreclosures. Attached to the *Complaint* was a letter from the Kinross Charter Township Department of Public Works dated January 3, 2024 to the Plaintiff/Appellee regarding a delinquent water bill showing a balance of \$259.31 for the residence of 28 Christopher Drive, Kincheloe, Michigan, under the name of Stephanie Wilson, Appellant. The *Complaint* requested a *Judgment of Possession* plus costs and damages. A *Summons* was issued by the Court on January 4, 2024 setting a Pre-Trial Conference for January 23, 2024. The *Return of Service of the Summons and Complaint*, shows that the Appellee attempted service on January 5, 2024, but that the Appellant had refused to sign. In the trial transcript of the Evidentiary Hearing held on February 3, 2024 set by the court after the Pre-Trial Conference was held, the Appellee testified as to service made by another party and the Appellant acknowledged that service (*Transcript, pp. 10-13*). At the Evidentiary Hearing held on February 13, 2024, both the parties testified. After hearing testimony, the Tribal Court made the following findings:

“...the Court finds by clear and convincing evidence that Ms. Wilson –uh—is remaining in a home owned by Mr. Harris at 28 Christopher Drive in Kincheloe, Michigan 49788 -um—there is no lease agreement in place. Mr. Harris -um- is asking for possession of his residence”.

“The two hundred and –and fifty-nine dollar and thirty-one cent water bill that was asked for in costs –um—is dismissed as its been indicated Ms. Wilson had paid –uh-that in full; and she will leave a copy of that with the Clerk’s office. Ms. Harris –er- Mr. Harris we will provide you a copy of same.”

“Um – so –uh the Court will order that the Defendant owes \$30 in court costs – which is the filing fee of what Mr. Harris had to –um-incur –uh—to file this complaint.”

“The Court also finds by clear and convincing evidence that grounds for eviction have been met under Chapter –um—83.501(5), occupation –occupying a preva-premises without permission or an agreement –um—after a demand – a reasonable demand –uh—by a person in authority over the premises has asked you to leave.”

“So Mr. Wilson, the court will order that Mr. Har – Mr. Harris is granted possession of the unit –um—and that – that he may seek –um—possession of that by a Writ of Possession on March 13<sup>th</sup> of 2024”.

(*Transcript, pp 19-21*).

On February 14, 2024, the Tribal Court issued a *Judgment of Possession* requiring the Appellant to vacate by March 13, 2024 or an *Order of Eviction* could be sought by Appellee. The Appellant filed a *Notice of Appeal* on February 28, 2024. A *Notice of Preparation of Transcript* was issued March 11, 2024 and a *Notice of Briefing Schedule* was issued March 13, 2024. An application and *Order of Eviction* was issued March 14 2024. This Court received no further appeals related to the March 24, 2024 *Order of Eviction*. Briefing in this matter was closed as of May 15, 2024. No further filings were received from either party. No oral argument was held. On June 11, 2024, this court convened a judicial conference to discuss and decide the matter on appeal.

### ***Jurisdiction and Standard of Review***

An appeal is properly before this Court if it is a final decision of the Tribal Court or an order affection a substantial right and which determines the action and prevents a judgment from which an appeal might be made. STC §82.111. A Landlord/Tenant Judgment and orders resulting therefrom constitute such orders of the Tribal Court.

Matters on appeal involving a conclusion of law are reviewed *de novo*. (STC § 82.124(5)). However, matters committed to the discretion of the Tribal Court shall not be subject to the judgment of the Court of Appeals. (STC § 82.124 (8)). Thus, unless otherwise set forth in Tribal law, matters involving findings of fact by the Tribal Court are reviewed under the clearly erroneous standard. “In applying the clearly erroneous standard of review, the court will determine whether it is left with a ‘definite and firm conviction’ that the trial court made an error in its findings of

fact.” *Rex Smith v. Sault Ste. Marie Tribe of Chippewa Indians*, APP-08-02, 3 (August 4, 2008) Moreover, the Anishinaabe teachings of *nibwaakaawin* (wisdom-use of good sense), *zaagi’idiwin* (practice absolute kindness), *minadendmowin*, (respect – act without harm) as well as *ayaangwaamizi* (careful and cautious consideration) guide this Court’s decision-making. *Payment v. The Election Committee of the Sault Ste Marie Tribe of Chippewa Indians*, APP-2022-02 (December 5, 2022) In applying all of the principle set forth herein, this Court gives regard to the special opportunity of the Tribal Court to assess the credibility of the witnesses who appear before it and will not substitute its judgment for that of the Tribal Court unless such credibility determinations are clearly erroneous. *Stewart v. Fuller*, APP-2023-08 (March 4, 2024)

### ***Discussion***

STC Chapter 83 sets forth the jurisdiction and procedures for eviction.

#### **83.101 Short Title.**

The following Chapter shall hereinafter be referred to as Chapter 83: Evictions and Foreclosure. It shall apply to any and all arrangements, formal or informal, written or agreed to orally or by the practice of the parties, in selling, buying, renting, leasing, occupying, or using any and all housing, dwellings, or accommodations for human occupation and residence.

The following arrangements are not governed by this Chapter:

- (1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service; or
- (2) transient occupancy in a hotel, motel or other commercial lodging.

#### **83.102 Jurisdiction.**

(1) Jurisdiction is extended over all buildings and lands intended for human dwelling, occupation or residence which may lie within:

- (a) the exterior boundaries of the tribal reservation;
- (b) lands owned by, held in trust for, leased or used by the Tribe, its housing authority, or any other entity of the Tribe; or
- (c) the Indian Country of the Tribe, as may be defined from time to time by the laws of the Tribe or of the United States.

(2) Jurisdiction is extended over all persons or entities within the jurisdiction of the Tribe who sell, rent, lease or allow persons to occupy housing, dwellings or accommodations for the purpose of human dwelling, occupation or residence, and all persons who buy, rent, lease or

occupy such structures. Such personal jurisdiction is extended over all person and entities, whether or not they are members of the Tribe, whether they are Indian or non-Indian, and whether they have a place of business within the tribal reservation. Any act within the reservation dealing with the subject matter of this Chapter shall be subject to the jurisdiction of the Tribe.

(3) Jurisdiction over all matters arising within the jurisdiction of the Tribe with respect to the subjects of this Chapter, and jurisdiction with respect to any person or entity acting or causing actions which are within this Chapter shall be exercised by the Tribal Court.

#### 83.305 Landlord Remedies.

Where a tenant has not complied with this Chapter or the agreement of the parties, the landlord has the right to:

(1) Give reasonable notice to the tenant to comply with his obligations, pay any monies due and owing under the agreement of the parties or landlord has right to terminate the agreement under which the tenant occupies the premises, and demand that he and those with him leave the premises.

(2) Require repairs or maintenance which are the responsibility of the tenant and compliance with reasonable rules and regulations for occupancy.

(3) Seek a court order or judgment for the payment of monies or costs, for compliance with the agreements and obligations of tenants, for termination of an agreement, payment of damages, eviction of tenants or any other relief to which he may be entitled by law or the agreement of the parties.

#### 83.401 Termination Procedures.

An agreement of the parties for the rental of a premises, and for the lease/purchase of a premises, may be terminated in the following manner:

(1) Termination shall be for good cause under this Chapter or by the terms of the rental/lease agreement of the parties.

(2) The written notice must contain the reasons for the termination, and inform the person receiving notice of the right to make a reasonable reply.

#### 83.402 Termination Notice Requirement.

The notice must be delivered within the following periods of time:

(1) No less than seven (7) calendar days prior to the termination of the rental agreement for any failure to pay rent or other payments required by the agreement.

(2) No less than three (3) calendar days prior to the termination of the rental agreement for nuisance, serious injury to property, or injury to persons. In situations in which there is an emergency, such as a fire or condition making the dwelling unsafe or uninhabitable, or in situations involving an imminent or serious threat to public health and safety, the notice may be made in a period of time which is reasonable, given the situation.

(3) No less than fourteen (14) calendar days in all other situations.

#### 83.501 Grounds for Eviction.

After proper notice terminating a tenant's tenancy a tenant may be evicted from any premises, ordered to pay damages and costs, or otherwise be subjected to the order or judgment of the Tribal court for the breach of any obligation under this Chapter, any agreement, including an agreement to purchase or rent any dwelling, or for any other obligation provided by law. A tenant may be evicted for:

(5) Occupation of any premises without permission or agreement, following any reasonable demand by a person in authority over the premises to leave.

#### 83.701 Summons and Complaint.

At any time after the expiration of the time set in the notice to quit, if the tenant or occupant of the premises refuses to quit possession or occupancy of the premises, the landlord may file a complaint in the Tribal Court for eviction and other relief. The complaint must state:

(1) the name and known address of the tenants against whom the suit is brought, but it need not state the names of any other occupants, who will be considered to be bound by a Tribal Court order;

(2) a description of the agreement of the parties or the terms under which the person being sued occupies the premises;

(3) the address or location of the premises in sufficient terms to allow a law enforcement officer to carry out any order of the Tribal Court;

(4) a description of the obligation the tenant has breached or the reason for the action;

(5) a statement showing that any required termination notices and the notice to quit have been served in accordance with the provisions of this Chapter requiring them; and

(6) the relief demanded, including any claims for damages, fees, costs or other special relief, which may include non-payment of rent or other costs between the time of notice and the Execution of Judgment described at '83.708.

As set forth in the *Facts and Procedural History*, the Appellee, Larry Harris, and the Tribal Court followed all the required procedures. The Appellant's *Notice of Appeal* and testimony at the Evidentiary Hearing is void of any argument or defense to set aside the Tribal Court's *Judgment of Possession*. Although there is a provision in the STC § 83.702 for Defenses for the Tenant, none were argued by the Appellant. Appellant's only argument was that the rent was paid up until May of 2024 and that the water bill had been paid as set forth in the findings of the Court. In addition, Appellant essentially argued hardship due to notice issues and her understanding of the verbal agreements made including making improvements to the premises (*Transcript, pp. 9-16*). Both parties testified as to the Appellee's daughter living in the residence which was followed by a two (2) year lease with the Appellant which expired and was followed by an informal arrangement and practice of the parties whereby the Appellant paid the Appellee's brother-in-law and then the brother-in-law's son over the course of the next 15 years. Appellant claimed that there was a later written lease with the Appellee's brother-in-law but she could not find it and neither party produced the original lease. (*Transcript, pp. 6-16*). In addition to the findings set forth above, the Tribal Court also observed that:

“...what the court has in front of it is –is I don't have a lease agreement. I don't have anything saying that you have...”

“I don't have the ability to read through something of what you're legally able to do and be there. But as far as the Court's concerned I think –um—you know- Mr. – Mr. Harris indicates that he owns the residence at 26 and 28 Christopher Drive – um—and that there is no lease agreement in place and that he – um—is not asking for any outstanding rent, he is merely asking for costs and a judgment of possession – um—and indicated that the water bill was due and owing. But I believe –um—that has been cleared –paid”.

Without additional materials from the Appellant as to the basis for her appeal, this Court is left to review the record before it to determine the presence of clear error.

After thorough review of the Tribal Court record, application of the Anishinaabe teachings of *nibwaakaawin* (wisdom-use of good sense), *minadendmowin*, (respect – act without harm) as well as *ayaangwaamizi* (careful and cautious consideration) guides this Court's decision-making to find that the Tribal Court correctly applied the law to the facts in making its determination that the Appellee had met his burden of proof to support the issuance of an the February 14, 2024 *Judgment of Possession*. This Court is guided by previous decisions in which deference is given to the “special opportunity of the Tribal Court to assess the credibility of the witnesses who appear before it and will not substitute its judgment for that of the Tribal Court unless such credibility determinations are clearly erroneous.” *Stewart* at 2. No such clear error is present here.

**ORDER**

For the reasons specified above, the Sault Ste Marie Tribe of Chippewa Indians Tribal Court's February 14, 2024 *Judgment of Possession* is affirmed and the matter is dismissed.

It is SO ORDERED.