

Stone v LRRCR --- #16096GC

Summary: Mr. Stone was terminated for failing a reasonable suspicion drug test given by the employer. Later, Mr. Stone applied for a dealer level 2 position. 14 days after receiving his application, LRRCR denied his application for employment. LRRCR alleged that Mr. Stone did not meet the minimum qualification of the job post. Mr. Stone filed suit claiming violation of the Indian Preference in Employment Law.

Decision and Order: Defendant LRRCR responded with a Motion to Dismiss for failure to state a claim for which relief can be granted. After Oral Arguments, the court granted the Motion to Dismiss. The Court agreed the Indian Preference in Employment Ordinance did not apply to Mr. Stone because he did not meet the minimum qualification for the job post.

Little River Band of Ottawa Indians
TRIBAL COURT
3031 Domres Road
Manistee Michigan 49660
(231) 398-3406
Fax: (231) 398-3404

PLAINTIFF:
LEVI STONE

V.

CASE NUMBER: 16096GC
HON. DANIEL BAILEY

DEFENDANT:
LITTLE RIVER CASINO RESORT

Defendant:
Little River Casino Resort
2700 Orchard Highway
Manistee, Michigan 49660

Plaintiff:
Levi Stone
In Pro Per
5683 N. Tyndall Road
Branch, Michigan 49402

At a session of said Court on July 18, 2016
In the Reservation Boundaries of the
Little River Band of Ottawa Indians
PRESENT: HON. DANIEL BAILEY

ORDER OF JUDGMENT AFTER MOTION TO DISMISS HEARING

On January 29, 2016, Mr. Stone was terminated for failing a reasonable suspicion drug test given by his employer, the Little River Casino Resort ("LRCR"). On March 18, 2016, Mr. Stone applied for a dealer level 2 position at LRCR. On April 7, 2016, fourteen business days after receiving his application, LRCR denied his application for employment. In his denial of employment letter, LRCR alleged Mr. Stone did not meet the minimum qualifications of the job post, specifically, LRCR alleged Mr. Stone had integrity issues and that his re-hire would constitute a negligent hire in violation of the job post requirements. Similarly, in the filed brief, LRCR noted Mr. Stone's application indicated he did not meet the minimum requirements of a dealer level 2, which were 1 year dealing blackjack and 6 months dealing poker or successful completion of an accredited Poker Dealer training and all specialty games offered at LRCR. Mr. Stone's application indicated he only had 2 months of experience dealing blackjack. He cited no other dealer experience.

On April 21, 2016, Mr. Stone filed suit alleging two violations (1) violation of the Indian Preference in Employment Law and (2) willful and knowing delay in the hiring process in order to deny due process. Defendant LRCR responded on May 25, 2016 with an Answer, Affirmative Defenses, and a Motion to dismiss for failure to state a claim for which relief can be granted.

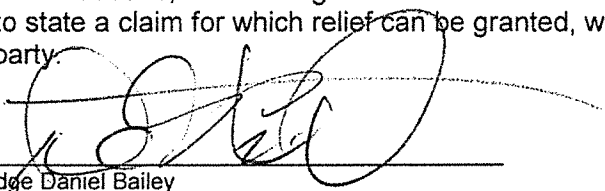
On June 20, 2016, the court held a pre-trial conference. Mr. Stone was present, as was legal counsel for LRCR. LRCR requested a motion date be scheduled to present their motion to dismiss in oral argument form. Mr. Stone requested a continuance to seek an attorney. At this appearance, Mr. Stone was informed that LRCR's motion to dismiss would be heard at the next court date whether or not he had an attorney. Mr. Stone asked for two weeks and the Court granted his request. A new court date was set for July 12, 2016. The Court provided a list of the attorneys who practice in Tribal Court, in an effort to assist Mr. Stone.

On July 5, 2016, Mr. Stone wrote the Court and requested a one week continuance to continue to seek legal representation. Over the request for denial made by LRCR, the Court granted the request. A new court date was set for July 18, 2016.

On July 18, 2016, both parties were present. LRCR requested to present its motion to dismiss. After oral argument by both parties, the Court granted LRCR's motion to dismiss based on the brief filed and oral arguments made. Specifically, the Court agrees the Indian Preference in Employment Ordinance did not apply to Mr. Stone because he did not meet the minimum qualifications for the job post, which is a necessary pre-requisite in order for the Preference Ordinance to apply. Likewise, the Court finds there was no delay in processing his application for employment.

For the aforementioned reasons, this Court grants the Defendant's request for a motion to dismiss for failure to state a claim for which relief can be granted, with prejudice. No costs are awarded to either party.

SO ORDERED:



Judge Daniel Bailey

7/25/16
Date

