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2 Mohican Nation
3 Stockbridge-Munsee Band
4 Tribal Court of Appeals
5 State of Wisconsin County of Shawano

6 SUNDAY R. WARRINGTON) Case No.: 02-AA-001
7 Appellant,)
8 vs.) Memorandum Opinion
9 STOCKBRIDGE-MUNSEE TRIBE,)
10 MOHICAN NORTH START CASINO AND)
11 BINGO, AND TAMMY PECORE,)
ASSISTANT, IN HER OFFICIAL)
CAPACITY,)
Appellees.)

STOCKBRIDGE - MUNSEE
TRIBAL COURT

AUG 27 2002

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13 Jurisdictional Statement

14 Appellant was an employee of the Stockbridge-Munsee Tribe,
15 a federally recognized Tribe of Indians. She appeals the
16 granting of a motion to dismiss her case against the Appellees,
17 and the denial of the Appellant's motion to that have this
18 matter placed on the Court's docket and to proceed to a judicial
19 hearing under the provisions of Chapter 53 of the Stockbridge-
20 Munsee Tribal Code.

21 The Mohican Nation, Stockbridge-Munsee Band of Mohicans
22 Court of Appeals has jurisdiction over this appeal pursuant to
23 Section 1.6 (L) of the Mohican Judiciary Act, which states that
24 "The Stockbridge-Munsee Court of Appeals shall have jurisdiction
25 over appeals from the Tribal Court."

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The Appellant proceeded to the Stockbridge-Munsee Tribal Offices on November 26, 2001 and attempted to file a type written letter that was dated on November 15, 2001 along with a copy of her termination letter and copy of a payroll check. The Tribal Court Clerk was not at work that day, so the Appellant sought another employee of the Tribe who was not the Clerk of Court, but who identified herself as "CG" who initialed the documents. These documents were not file stamped with a date and time of filing, but were only initialed by "CG".

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1 when the Appellant's motions were filed seeking a Court Order to
2 direct the Clerk of Court to assign a docket number to the
3 statement of claim and to basically get this case on the Court's
4 calendar. This case then began to proceed to a hearing on May
5 03, 2002 at which time the Tribal Court denied the Appellant's
6 Motions and granted the Appellee's *Motion to Dismiss the*
7 *Complaint* without prejudice.

8 This Court of Appeals has reviewed the filings in the case,
9 and has convened, via a teleconference call.

10 Issues

11 The Appellees basic arguments are that the Appellant did
12 not file sufficient notice of her intent to appeal her
13 termination. Appellees argue, even though the Appellant had
14 documents *filed*¹ within the time frame allowed under Chapter 53
15 of the Tribal Code, that those documents were deficient in
16 meeting the requirements of notice of appeal. The Appellees
17 then argue that the motion to have the case proceed through
18 Court was not filed within the time limits established by
19 Chapter 53 of the Tribal Code.

20 The Appellant argues that she did file the required
21 documents in a timely manner and, therefore, should be allowed
22 to proceed to a hearing on her appeal of her termination.

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¹ Filed is used in the sense that the appellant had documents initial by a
tribal employee on November 26, 2001.

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1 initiate the court action under §53.45 by filing documents
2 within 30 calendar days of her termination.

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4 The Appellees further argue that the Appellant did not
5 follow the proper procedures in filing in Court. Their argument
6 is; ...the Court procedures says the petition filed in Tribal
7 Court under this ordinance, meaning the employee rights
8 ordinance, may be in any written format, but shall, but shall
9 include at least the following information. It list {sic} 4
10 items: name and address of the petitioner, a statement
11 identifying the enumerated right under section 53.3; a
12 description of the facts; then 4th, specific request stating
13 required relief. Out of those shallow requirements, 3 of them
14 were not even close to being met."²

15 This argument would be given more weight if the letter of
16 termination had also referred the Appellant to §53.5 of the
17 Tribal Code which states:

18 **Section 53.5 Court Procedures**

19 **(A) The petition filed in tribal court under this Ordinance may be in any written format,**
20 **but shall include at least the following information:**

21 **(1) The name and address of the petitioner.**

22 **(2) A statement identifying which of the enumerated rights under Section 53.3 has**
23 **been violated.**

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25 ² Transcript, line 22, page p.4.

1 **(3) A brief description of the facts and events that gave rise to the alleged violation,**
2 **including the names of potential witnesses and the name of the petitioner's**
3 **supervisor, if applicable.**

4 **(4) A specific request stating the required relief. Relief is governed by subsection**
5 **(F) below.**

6 In reviewing what steps the Appellant took in this case,
7 this Court concludes she complied with §53.4 and §53.45, the two
8 sections her letter of termination referenced. However, holding
9 her to the letter of the requirements of §53.5 when she was not
10 referred to that section, may conflict with the general
11 principles of fairness and proper notice.

12 The Tribe's Code, in general, requires a liberal
13 interpretation of its provisions. Tribal Code §1.3(B)
14 specifically states: *"This code is exempted from the rule of*
15 *strict construction. It shall be read and understood in a*
16 *manner that gives full effect to the purposes for which it was*
17 *enacted."*

18 Further, this Court finds under Tribal Code §1.32 that
19 deficient filings do not, as a matter of course, render them
20 invalid.

21 **Section 1.32 Irregularities**

22 **(A) Any violation notice, complaint, summons, warrant, or similar document whose matter**
23 **does not literally conform to the requirements prescribed in this code or Court rules, shall**
24 **not thereby be rendered invalid if the matter contained in the document substantially**
25 **achieves the purposes of the code provisions.**

25 **(B) However, no such document shall be valid unless it contains such signature or**
26 **signatures as are prescribed by this code.**

1 Now we look at the document that the Appellant filed on
2 November 26, 2001. Although the letter, dated November 15,
3 2001, is not signed, the Appellant does identify herself in the
4 body of the letter by stating "I Sunday R. Warrington Here by
5 (sic)give a written statement to the decision that was made by
6 the Manager Mr. Gerald Miller, to suspend me from my current job
7 at the North Star Casino, on October 24, 2001. She further
8 states, in her letter; "The reason for the suspension was, I'm
9 being accused of possible fraud. To the best of my knowledge, I
10 am innocent of this accusation."

11 From the reading of this document, it is reasonable to
12 conclude that the Appellant is disputing her "suspension". In
13 applying the *bare requirements* standard as established by the
14 Stockbridge-Munsee Court of Appeals in *Stockbridge-Munsee*
15 *Community v. Joseph Miller*, Case No. 97-AA-004, we find that the
16 Appellant did meet that standard. The Appellant did file a
17 written notice, within the statute of limitations, which,
18 although not conforming strictly to the rules of procedure, does
19 set forth enough information to create a case or controversy.
20 The Appellant can not be faulted for the absence of the Tribal
21 Court Clerk, and had a reasonable expectation that she had filed
22 the proper documents. Had the Appellant not taken the steps to
23 seek out another Tribal employee, who acknowledged receipt of
24 the documents, the Appellant would fail in her appeal. However,
25 the Appellant did make a good faith effort to appeal her
termination and is entitled to her *day in Court*.

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By the
Mohican Nation
Stockbridge-Munsee Band of Indians
Tribal Court of Appeals

This 23rd day of August 2002

Honorable David D. Raasch

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1 DECISION AND ORDER

2 This Stockbridge-Munsee Court of Appeals finds that the
3 trial Court made a material error in applying the bare
4 requirements standard in denying the Appellant's motions and in
5 granting the Appellees' Motion to Dismiss. It is the Order of
6 this appellate panel to remand this case back to the Trial Court
7 for further proceedings consistent with these findings.

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9 By the
Mohican Nation
10 Stockbridge-Munsee Band of Indians
Tribal Court of Appeals

11 This 23rd day of August 2002

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13 Concurring

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15 Honorable Mark Butterfield
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STOCKBRIDGE - MUNSEE
TRIBAL COURT

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