

Essex County manager wins suit: Legal fees to repel employer covered

Written by LOHR McKINSTRY, Staff Writer
Thursday, April 19, 2007

ELIZABETHTOWN — Essex County Manager Clifford Donaldson Jr. has won his lawsuit to force the county to pay his legal fees arising from an attempt to remove him from office. Supervisor George Canon (R-Newcomb), acting as then-chairman of the County Board of Supervisors, sued Donaldson in 2005 in an attempt to remove him from office for residing outside Essex County.

That suit was unsuccessful, and Donaldson has since changed his residency to the Town of North Elba in Essex County. His official residence had been on the Franklin County side of the Village of Saranac Lake.

Donaldson said he had to hire his own legal counsel, attorney Ronald Dunn of Albany, to defend himself against Canon's suit, because then-County Attorney Richard Meyer was not available.

After the county declined to pay his legal bills, Donaldson sued in State Supreme Court. A decision in Donaldson's favor was released Wednesday.

Clinton County Acting Supreme Court Justice Patrick R. McGill said the county claimed the suit should be dismissed because Donaldson didn't provide a copy of Canon's litigation, as required by statute.

But McGill said Donaldson claimed he did provide a copy, and minutes of county meetings show the suit was discussed several times.

"There is no basis for denial of the claim for reimbursement based on alleged lack of notice," McGill wrote.

The county also tried to say Donaldson's office of county manager was automatically vacant because he didn't live in the county.

"The county argues the county manager, whom they have employed for over 10 years, was not an employee at the time the Canon suit was brought," McGill said.

"The argument defies logic. It is clear he was an employee of the county."

McGill said Meyer wrote to the board that Donaldson's position was, in his opinion, vacant because Donaldson did not reside in Essex County.

"The county chose to ignore the advice of its attorney and passed legislation appointing Donaldson to the position of county manager and even went to the extent of waiving the residency requirement," McGill said.

"Now it (the county) chooses to deny that Donaldson is an employee. Such a position defies logic and common sense."

McGill said Canon's suit "went directly to the power, authority, obligations and function of its employee and as such it is the duty of the county to shoulder its burden in defending its actions in hiring the employee and waiving his residency requirement."

He said "Canon directly challenged the power and authority of the Essex County Board of Supervisors to hire Donaldson as county manager because Donaldson did not live in Essex County."

McGill ordered Essex County "to pay the reasonable and necessary legal fees incurred by petitioner (Donaldson)."

The next step is for Donaldson to submit his legal expenses, believed to be more than \$15,000, for repayment.

Donaldson said Wednesday he wants to withhold his comments on the decision until a later date.

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He has been county manager since November 1995. He has come under fire in recent years from the board's Republican leadership for alleged inadequate management skills, most recently over his response to the Valentine's Day blizzard that closed all roads in the county. Donaldson has denied the accusations, and his critics have denied that their disapproval is politically motivated.

Board of Supervisors Chairman Noel Merrihew III (R-Elizabethtown) said he only just got a copy of the decision.

"A judge is a judge, and that was his decision. Upon more review of the decision, we'll decide whether to appeal."

Canon could not be reached for comment Wednesday afternoon.