



Before: Judge Rowan Downing

Registry: Geneva

Registrar: René M. Vargas M.

LACKNER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Mariam Munang, OSLA

Counsel for Respondent:

Steven Dietrich, ALS/OHRM, UN Secretariat

Nicole Wynn, ALS/OHRM, UN Secretariat

Introduction

1. By an application filed on 18 June 2016, the Applicant, a Judicial Affairs Officer at the United Nations Assistance Mission in Afghanistan (“UNAMA”), contests a decision in respect of the amount of compensation for loss and damage to personal effects attributable to service, and also challenges UNAMA’s requirement that he sign its Release from Liability Form instead of the standard Undertaking and Assignment Form required by Administrative Instruction ST/AI/149/Rev.4 (Compensation for loss of or damage to personal effects attributable to service).

Facts

2. Following an attack by Taliban forces on Kunduz, where the Applicant was based, on 28 September 2015, the Applicant asserts that he lost all of his personal belongings located at his place of residence and in his office.

3. On 17 November 2015, the Applicant submitted a claim to the Local Claims Review Board of UNAMA (“the Board”) for compensation for the loss of his personal effects attributable to service in the sum of USD22,388; the Applicant subsequently reduced this sum to USD20,568 following his submission of additional documentation.

4. By letter dated 21 March 2016, the Applicant was advised of the approval of his claim in the sum of USD3,450.35. The offer of compensation was, nonetheless, subject to the signature by the Applicant of a release, the terms of which the Applicant found objectionable and asserts are not in conformity with the form developed by the Administration.

5. On 1 May 2016, the Applicant filed a request for management evaluation of the 21 March 2016 decision to the Management Evaluation Unit (“MEU”).

6. On 18 June 2016, the Applicant filed his application in this matter. It was served to the Respondent on 29 June 2016 for a reply by 29 July 2016.

7. By letter dated 20 July 2016, the Officer-in-Charge of the Management Evaluation Unit informed the Applicant of the following:

Following communications between the MEU and the Field Personnel Division, Department of Field Support (FPD/DFS) on 18 July 2016, the FPD/DFS informed the MEU that UNAMA forwarded your request for compensation for further review to the UN Claims Board in New York.

8. On 29 July 2016, the Respondent filed his reply advising the Tribunal of the rescission of the contested decision, and of the referral of the Applicant's claim "to the United Nations Claims Board in New York." As a result, the Respondent seeks that the Tribunal find that the application is moot and dismiss it accordingly.

Consideration

9. The Tribunal agrees with the Respondent's assertion that the application is now moot. The Applicant has essentially received the relief sought, as the decision has been rescinded and his claim is being reconsidered. On this matter he could not have been granted greater relief by the Tribunal. It is further noted that the challenge raised in respect of the form to be signed by the Applicant is also effectively moot, as the *substratum* of this complaint has gone with the rescission of the contested decision. The Tribunal does not have jurisdiction to give an advisory opinion *in vacuo* in respect of the wording of UNAMA's Release from Liability Form.

10. Article 9 (Summary judgement) of the Tribunal's Rules of Procedure provides that:

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate.

11. As the Applicant has effectively received the relief sought in his application by the rescission of the contested decision, rendering the application now moot,

the Tribunal will exercise its power under the above-quoted article 9 to summarily dismiss the application, but noting that no decision has been made on its merits.

Conclusion

12. In view of the foregoing, the Tribunal ORDERS:

That the application be dismissed as moot, with no decision having been made on its merits.

(Signed)

Judge Rowan Downing

Dated this 3rd day of August 2016

Entered in the Register on this 3rd day of August 2016

(Signed)

René M. Vargas M., Registrar, Geneva