



Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Jean-Pelé Fomété

SOLLOWAY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER STRIKING OUT THE
APPLICATION**

Counsel for the Applicant:
Bart Willemsen, OSLA

Counsel for the Respondent:
Christine Graham, ALS/OHRM,

Introduction

1. On 23 June 2011, the Applicant a Director of the Rule of Law in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUCSO”) filed a suit before the Tribunal challenging the Respondent’s decision to issue her with a written reprimand on the basis of a process that did not respect UN policy and dues process.
2. On 24 June 2011, the Applicant moved the Dispute Tribunal (UNDT) to suspend the proceedings pursuant to Article 10(1) of the Statute, on grounds that there were efforts underway to resolve the matter informally.
3. On 11 July 2011, the Tribunal issued Order 072 (NBI/2011), suspending the proceedings up to Friday 12 August 2011 to allow the parties pursue informal dispute resolution. The Applicant applied for further suspensions of proceedings and the Tribunal granted several orders as follows;
 - a. Order 102 (NBI/2011) of 19 August 2011;
 - b. Order 116 (NBI/2011) of 16 September 2011;
 - c. Order 152 (NBI/2011) of 13 December 2011;
 - d. Order 008 (NBI/2012) of 17 January 2012

In granting the Order 008 (NBI/2012) of 17 January 2012, the Tribunal observed that it would not entertain further motions for further suspensions of proceedings.

4. Nevertheless, on 16 February 2012 both parties filed a joint request for further suspension of proceedings requesting the Tribunal to reconsider Order 008 (NBI/2012) and to grant one month suspension of proceedings to finalize the details of their agreement.
5. On 17 February 2012 the Registry acknowledged receipt of the above motion and informed the parties that the matter was to be brought to the attention of the Judge.

Consideration

6. Article 15.5 of the Tribunal's Rules of procedure provides that the time limit for mediation normally shall not exceed three months.

7. In order to encourage the parties to settle the matter informally, the Tribunal had reiteratively extended the time limit.

8. The Tribunal notes, regrettably that, despite the *de facto* further suspension of the proceedings from 16 February 2012 to 16 March 2012, neither of the parties have informed the Tribunal of the progress and/or outcome of the informal resolution process.

9. It is now over three months since the last communication and almost a year since the Applicant filed her Application. The Applicant had filed her Application on 23 June 2011 and a day later filed a motion for suspension of proceedings for the purposes of resolving the matter informally.

10. It is close to a year since the informal resolution process was engaged. Frequent applications for suspension of proceedings with no apparent progress made or reported do not serve the cause of justice and unnecessarily load the Tribunal's docket. This conduct is also tantamount to an abuse of the process of this Tribunal

IT IS ACCORDINGLY ORDERED THAT:

- a) The motion for further suspension of proceedings is refused.
- b) The matter of *Solloway v. Secretary-General of the United Nations*, registered as Case Number UNDT/NBI/2011/029 be struck off of the record.
- c) The suit may only be relisted with leave of the Tribunal upon being satisfied with any reasons relied upon by the Applicant to have the matter relisted.

Case No. UNDT/NBI/2011/029

Order No. 079 (NBI/2012)

(Signed)

Judge Nkemdilim Izuako,

Dated this 8th day of June 2012

Entered in the Register on this this 8th day of June 2012

(Signed)

Jean-Pelé Fomété, Registrar, UNDT, Nairobi