



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2016/025

Order No.: 152 (NY/2016)

Date: 20 June 2016

Original: English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

NOUINOU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON WITHDRAWAL OF AN
APPLICATION FOR SUSPENSION OF
ACTION**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Steven Dietrich, ALS/OHRM, UN Secretariat

Introduction

1. On 15 June 2016, the Applicant filed an application for suspension of action pending management evaluation, together with 18 annexes.
2. By email the same day, the New York Registry transmitted the application to the Respondent together with the instructions of the undersigned Judge that a reply was to be filed by the Respondent by 5:00 p.m. on Friday, 17 June 2016. In a separate email, the Registry requested that the Applicant refile the annexes to her application so that the names and numbers of the annexes corresponded to the list provided in her application.
3. On the same day, the Applicant refiled her original 18 annexes, together with six new annexes. After close of business on the same day, in an email to the Registry, the Applicant informed the Tribunal that she had filed new annexes, stating that she considered them relevant to her application, and requesting that they be accepted.
4. By Order No. 144 (NY/2016) dated 16 June 2016, the Tribunal ordered the parties to appear at an urgent Case Management Discussion (“CMD”) later that day.
5. At the CMD, Counsel for the Respondent informed the Tribunal that a response to the Applicant’s 13 June 2016 request for management evaluation had been completed and provided to the Applicant on 14 June 2016. The Applicant confirmed that she had received the response to her request for management evaluation but informed the Tribunal that she had only received it on 15 June 2016, after her application for suspension of action had already been filed. Counsel for the Respondent provided the Tribunal with a copy of the response to the request for management evaluation, dated 14 June 2016. The Applicant uploaded the response to the request for management evaluation to the e-Filing portal on 16 June 2016, following the CMD.

6. The Tribunal informed the Applicant of the basic legal test that must be met in order for an application for suspension of action pending management evaluation to succeed, noting, in particular, that such a filing is predicated on the fact that there is a *pending* management evaluation. The Tribunal suggested that the Applicant seek the assistance of the Office of Staff Legal Assistance and consider whether, in the circumstances, the withdrawal of her application would be appropriate. The Tribunal also agreed to extend the deadline for the Respondent to file his reply to the application for suspension of action until 12:30 p.m. on Monday, 20 June 2016.

7. On 17 June 2016, the Applicant filed a request to withdraw her application for suspension of action pending management evaluation. In her request for withdrawal, the Applicant stated that she will “pursue a formal resolution through mediation involving the Ombudsman and the Administrative Law Section of the Office of Human Resources Management”. She also stated that she “requests the extension of the given period to file her application for merits should the formal resolution through mediation [not result in a] positive outcome”.

8. On 20 June 2016, the Respondent filed a reply to the application for suspension of action, submitting that it is moot and requesting that it be dismissed.

Consideration

9. Article 2.2 of the Dispute Tribunal’s Statute states:

2. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

10. The parties agree that there is no longer a pending management evaluation in relation to this application. The Applicant has requested the withdrawal of

the application for suspension of action. There is no longer any determination for the Tribunal to make.

Observation

11. The Tribunal notes the Applicant's statement that she "requests the extension of the given period to file her application for merits should the formal resolution through mediation [not result in a] positive outcome". The present case before the Tribunal concerns only the application for suspension of action filed by the Applicant on 15 June 2016. The Applicant should pay careful attention to the statutory deadlines for filing an application on the merits (art. 8 of the Dispute Tribunal's Statute). Should she wish to file a request for an extension of time to file such an application, she may do so in a separate filing at the appropriate time. Such a filing would initiate a separate case before the Tribunal.

Conclusion

12. The Applicant's request to withdraw the application for suspension of action is hereby granted and Case No. UNDT/NY/2016/025 is closed.

(Signed)

Judge Ebrahim-Carstens

Dated this 20th day of June 2016