

UNDT/2009/018, D'Hooge

UNAT Held or UNDT Pronouncements

The filing of the incomplete statement of appeal by 31 July 2008 complied with the time limit specified by the Staff Rules. The failure to file the full statement of appeal within one month (as was required by the JAB rules) may (not must) lead to implied abandonment in the absence of explanation and permits restoration of the appeal if an adequate explanation is provided; this does not require exceptional circumstances. The delay was explained by the need to obtain the investigative report and its annexures lying at the centre of the case. What constitutes an adequate explanation will vary from case to case and will not be an entirely objective question. If counsel is responsible for the delay but has acted reasonably, it will only be in exceptional circumstances that such an explanation would not be accepted. Even if such an explanation were not accepted and the appeal treated as abandoned, it could be restored, provided that a full statement of appeal was forthcoming. Outcome: The appeal was receivable, remained receivable and has not been abandoned.

Decision Contested or Judgment/Order Appealed

The contested decision was communicated to the applicant on 28 April 2008 and the adverse outcome of the administrative review was dated 21 June 2008. The applicant commenced proceedings by filing with the Joint Appeals Board (JAB) on 31 July 2008 an incomplete statement of appeal. The applicant subsequently failed to file the full statement of appeal within the prescribed one-month time period. The main issue is whether the application is receivable.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The appeal was receivable, remained receivable and has not been abandoned.

Full judgment

[Full judgment](#)

Applicants/Appellants

D'Hooge

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/077/JAB/2009/035

Tribunal

UNDT

Registry

New York

Date of Judgement

10 Sep 2009

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Former Staff Rules

- Rule 111.1
- Rule 111.2(a)(i)(ii)
- Rule 111.2(f)