

UNDT/2009/027, Sina

UNAT Held or UNDT Pronouncements

Where evidence is capable of establishing a likelihood of a connection between potentially extraneous considerations and a failure to obtain a renewal of a contract, summary dismissal is unlikely to be warranted. Where one party raises sufficient material suggesting a particular fact or facts and the other party has the sole means of refuting that inference, then an evidentiary burden to call that evidence will ordinarily arise so that a failure to do so will make it relatively easy for the other party to treat the fact as proven. Outcome: The motion for summary judgment was dismissed, without consideration of the merits of either case.

Decision Contested or Judgment/Order Appealed

The applicant was employed on a fixed-term contract which was not renewed. He contended that adverse findings of an investigation into an explosion at his residence had influenced the decision not to renew his contract. The respondent argued that as the primary facts were not in dispute and the applicant could not establish a link between the findings and the decision not to renew he must fail as a matter of law. The question was whether it was necessary to determine disputed facts for the purpose of deciding the application for summary judgment.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Outcome Extra Text

The motion for summary judgment was dismissed, without consideration of the merits of either case.

Full judgment

[Full judgment](#)

Applicants/Appellants

Sina

Entity

UNDP

Case Number(s)

UNDT/NY/2009/051/JAB/2008/098

Tribunal

UNDT

Registry

New York

Date of Judgement

2 Oct 2009

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Applicable Law

UNDT RoP

- Article 9