

UNDT/2009/060, Lutta

UNAT Held or UNDT Pronouncements

Respondent's Counsel filed a motion seeking an extension of the time limit to file the Respondent's reply on several grounds, including exigencies of service. The Respondent was enjoined to submit a proper application requesting that he should be allowed to take part in the proceedings. The determination of whether he was going to be authorized to file a reply was going to be taken in the light of the Respondent's motion.

Decision Contested or Judgment/Order Appealed

The Applicant sought compensation for the substantive and procedural irregularities committed in the conduct of investigations against him, the resulting impact on his career advancement and the professional and moral injury to him caused by his having been negligently and wrongfully charged with drunk-driving.

Legal Principle(s)

The UNDT Statute and Rules of Procedure do not allow a Respondent to request for an extension of the time limit to submit a reply. The only available remedy for a Respondent who has not filed a reply in time is to "seek the permission of the Dispute Tribunal" to take part in the proceedings in accordance with article 10.1 of the Rules of Procedure. To have left the Respondent without any other option at all in cases of failure on his part to file a timely response to a claim would have been perceived as denial of fairness and against the equality of arms principle in proceedings before the Tribunal. The Respondent who finds himself outside the time limit for filing a reply should first seek the permission of the Tribunal to take part in the proceedings and to state the reasons why he should be granted such permission. This is so because by putting himself outside the requisite delay he is no longer considered to be part of the proceedings. If the Tribunal grants the

Respondent's motion and authorizes him to be part of the proceedings, the next stage is to determine whether the Respondent should be allowed to file a reply. The application by the Respondent for permission to participate in the; proceedings may also contain a motion for a belated filing of the reply under article 19 of the Rules.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Lutta

Entity

ECA

Case Number(s)

UNDT/NBI/2009/066

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

26 Oct 2009

Duty Judge

Judge Boolell

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Disciplinary matters / misconduct

Investigation

Procedure (first instance and UNAT)

Applicable Law

Former Staff Rules

- Rule 101.2(b)

Staff Regulations

- Regulation 1.2(q)
- Regulation 1.2(t)

UNDT RoP

- Article 10.1
- Article 19
- Article 7.5

UNDT Statute

- Article 8.3