

UNDT/2009/075, Castelli

UNAT Held or UNDT Pronouncements

“Continuous service” occurs if a staff member under two or more consecutive contracts works without any break in employment. A break-in-service cannot be taken into account if the staff member continues to work and be paid. Not every break in employment will effect a discontinuity for the purpose of calculating entitlements. Based on its failures to follow its own internal procedures or its alleged mistakes, the Administration may not impose a break-in-service in order to deny a staff member benefits to which he would otherwise have been entitled. Outcome: Payment of relocation grant to the applicant, including interests.

Decision Contested or Judgment/Order Appealed

The applicant was employed by the same office in the UN Secretariat under two consecutive contracts. The duration of the first was approximately 9 months and the second was 6 months. Although the first strictly limited his services to UNMIN and the second referred to UNIMIG, his responsibilities remained unchanged during the entire period of employment. After 11 months, the Administration ordered him to take a break- in-service which he refused to undertake. Instead, he continued to work and the Administration continued to pay him. Eventually, he applied for a relocation grant that largely depended upon whether he had served a continuous period of employment for one year or more. The Administration denied this. It essentially claimed that the applicant had not been employed continuously for one year or more and it was entitled to treat his employment as discontinuous, that it could not validly enter into an employment contract for one year or more without the central review body having been consulted, that it had mistakenly assigned him to UNIMIG in the second contract, and that he had not been appointed to a mission.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Castelli

Entity

UNIFIL

Case Number(s)

UNDT/NY/2009/2009/054/JAB/2009/103

Tribunal

UNDT

Registry

New York

Date of Judgement

13 Nov 2009

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45
Relocation grant

Applicable Law

Administrative Instructions

- ST/AI/1999/7
- ST/AI/2006/3