

UNDT/2009/094, Bernard

UNAT Held or UNDT Pronouncements

In accordance with former staff rule 104.12(b)(i) and provisional staff rule 4.13(c), the Applicant cannot claim a right to the renewal of her fixed-term appointment. The Applicant claims that the difficult working relationship she had with her supervisor led the latter, with the objective of getting rid of the former, to seek the reclassification of her post at a higher level. However, the Applicant does not prove that the non-extension of her appointment results solely from the desire of her supervisor to remove her from the service, nor that, consequently, the contested decision appears *prima facie* to be unlawful. To order the suspension of an administrative decision, it is necessary that the three conditions provided for under article 2, paragraph 2, of the Tribunal's statute be fulfilled. Given that one of the conditions is not fulfilled – i.e. the contested decision does not appear *prima facie* to be unlawful – the Tribunal must reject the application without its being necessary to examine whether the other two conditions – urgency and irreparable damage - are fulfilled

Decision Contested or Judgment/Order Appealed

The Applicant's post was reclassified at a higher level and since she was not selected for another position within UNHCR, her fixed-term appointment will not be extended beyond its expiry date of 31 December 2009. The Applicant requests the Tribunal to suspend the implementation of the decision not to extend her fixed-term appointment.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Outcome Extra Text

The application to suspend the implementation of the contested decision until the management evaluation has been completed is rejected.

Full judgment

[Full judgment](#)

Applicants/Appellants

Bernard

Entity

UNHCR

Case Number(s)

UNDT/GVA/2009/106

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Dec 2009

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Classification (post)

Non-renewal

Applicable Law

Former Staff Rules

- Rule 104.12(b)(i)

Provisional Staff Regulations and Rules

- Rule 4.13(c)

UNDT Statute

- Article 2.2