

UNDT/2009/097, Lewis

UNAT Held or UNDT Pronouncements

Prima facie unlawfulness: There is positive evidence from the applicant as to what her supervisor stated and some evidence suggesting ill will on the part of her supervisor. The low test of reasonable arguability is satisfied and accordingly, the prerequisite of prima facie unlawfulness is present. Urgency: The applicant provided reasonable explanations for the delay in contesting the decision and the contract was to expire the day of the hearing; therefore, the urgency requirement is satisfied. Irreparable damage: Mere economic loss can never be irreparable since, if the applicant succeeds in the substantive action, compensation will be payable. As mentioned in other suspension of action cases, the loss of employment for performance reasons is more than a purely economic act with more than purely economic consequences and can constitute irreparable harm. With reservations, his Honour decided to adopt the same approach for reasons of comity. Outcome: The application is granted pending the management evaluation.

Decision Contested or Judgment/Order Appealed

The applicant is employed as a local officer on a twelve-month fixed-term contract at UNICEF, Jamaica, was due to expire on 31 December 2009. On 30 November she was informed in writing by the Representative of UNICEF Jamaica that her contract would not be renewed after its expiration on 31 December 2009. The applicant alleged that he told her this was due to shortcomings in performance. The applicant alleged this assessment was made on the basis of information obtained from her supervisor who was motivated by ill will. The respondent stated that her performance assessment played no role in the non-renewal.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Lewis

Entity

UNICEF

Case Number(s)

UNDT/NY/2009/144

Tribunal

UNDT

Registry

New York

Date of Judgement

31 Dec 2009

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

UNDT RoP

- Article 13
- Article 14