

UNDT/2010/015, Warren

UNAT Held or UNDT Pronouncements

The tendered reports of the Joint Inspection Unit (JIU) regarding home leave were admissible in the case, not only as reports of the opinions of the JIU but also as evidence of the facts stated in them, including as to the practices of the UN. Because of the lack of any reference to a technical definition, the only viable approach was to give the term “full economy class” as ample a meaning as the phrase could reasonably bear and identify those fares which it logically and reasonably denotes. The IATA code was used as an identifier by UNDP and UNOPS, but the lump-sum received by the applicant was not calculated with reference to this code. Under the IATA, “unrestricted full economy class”, “full economy class” and, for that matter, “unrestricted economy class” would fall into the category designated “Economy/Coach”, thus the code designators “Y” or “S” should apply. Outcome: The respondent to pay the applicant the residual amount of USD20,546, based on the Alitalia fare, plus interest at 8 per cent per annum from 25 March 2008 to the date of payment.

Decision Contested or Judgment/Order Appealed

According to UNDP/ADM/2003/29, the applicant was entitled to a lump-sum of 75 per cent of “the cost of the full economy class fare by the least costly scheduled air carrier and by most direct route” for his home leave travel (three adults and a child from Geneva to Canberra). The respondent paid the applicant USD10,354 based on the price of an “economy premium” fare with the IATA code designator “W”. The applicant claimed that the correct basis should have been a “full fare economy class” fare from British Airways with IATA code designator “Y” at the price of USD11,288 per ticket, i.e. a total of USD31,747. The cheapest available “Y” fare as at early September 2009 was offered by Alitalia at USD10,919 according to the information provided by the applicant. The respondent did not produce any documentation to this point.

Legal Principle(s)

Any material capable of rationally bearing on the issues in dispute is admissible as evidence, including hearsay. The crucial questions are relevance and cogency or weight. There is a residual discretion to exclude evidence where it would be unfair to a party to admit it or its admission would unnecessarily add to the expense, inconvenience, or complexity of the trial.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Warren

Entity

UNOPS

Case Number(s)

UNDT/NY/2009/037/JAB/2008/078

Tribunal

UNDT

Registry

New York

Date of Judgement

1 Mar 2010

Duty Judge

Judge Adams

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Home leave

Compensation

Pecuniary (material) damages

Applicable Law

Staff Rules

- Rule 107.9