

UNDT/2010/016, Fedoroff

UNAT Held or UNDT Pronouncements

Outcome: The application was held to be out of time. The Tribunal did not find this case to be exceptional. The application was dismissed.

Decision Contested or Judgment/Order Appealed

The applicant's supervisor promised her that she could use eight annual leave days in excess of the 60-day limit on carrying forward unused annual leave days into the following leave cycle. However, the applicant was subsequently informed by her department that she would not be allowed to do this. The applicant filed an application requesting compensation for the lost days. The respondent submitted that the application was time-barred.

Legal Principle(s)

Time limits: The judgment identifies a number of factors which may be taken into account in applying the test of what constitutes an "exceptional case". The Tribunal will consider importance that is placed on time limits being complied with in the interests of good administration and will take into account that time limits are not intended to operate to the disadvantage of staff or to constitute a trap or a means of catching them out when they did all that could reasonably be expected of them and furthermore when they acted in good faith. The facts and circumstances that caused or contributed to the appeal being out of time will have to be given considerable weight in reaching a final assessment. The test involves the application of a discretionary power (two-stage process—first, decide whether the case is exceptional, and second, decide whether it would be just and equitable to suspend or waive the time limit). The word "exceptional" simply means something out of the ordinary. The Tribunal is required to consider the totality of the facts and circumstances for non-compliance with the time limit. Where they are out of the

ordinary this could reasonably provide a justification for a failure to adhere to the time limit. Annual leave: The rules regarding the carry-over of annual leave are to be strictly applied.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Fedoroff

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/074/JAB/2009/028

Tribunal

UNDT

Registry

New York

Date of Judgement

28 Jan 2010

Duty Judge

Judge Meeran

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Former Staff Rules

- Rule 105.1(c)
- Rule 111.2(a)
- Rule 111.2(f)
- Rule 112.2

Staff Regulations

- Regulation 11.1(a)