

UNDT/2010/057, Ianelli

UNAT Held or UNDT Pronouncements

Assignment grant: Rule 107.20 clearly envisages a situation in which a newly recruited staff member from an area “within commuting distance of the duty station” would be entitled to an assignment grant where he had been “settled” in the duty station perhaps by a former employer who due to the new recruitment would no longer take responsibility for such things as his accommodation. He would be given the assignment grant to “resettle” himself, as it were. By the same token, a newly recruited staff member who had previously worked for the Organisation for a period of time as a consultant and most likely living in make-shift, unsettled or temporary accommodation would be entitled to the grant so that he can now properly settle himself as a staff member. In my Judgment, it is only a resident national of the country in which the duty station is, or a permanent resident of the same, who can rightly be assumed to have established a household there and thus not entitled to the grant. Rule 107.20(i) read together with Section 1.5 of ST/AI/2000/17 appropriately cover situations in which the grant is payable even if the staff was “recruited within commuting distance” and there was no “travel upon [...] appointment. Relocation grant: The relocation grant or ‘lump sum option for unaccompanied shipments’ is a lump sum payment for which an eligible staff member can opt as an alternative to his/her existing unaccompanied shipment entitlement. It is a significant entitlement paid to a staff member who is to be or has been employed for one year or more. The purpose of this entitlement is fairly obvious. It is a grant appropriately designed to enable or assist a staff member to bear the costs associated with the relocation, as it were, of his or her personal effects and household goods. It is paid upon appointment, assignment or transfer or upon separation from service. The use of this grant is left entirely up to the discretion of the staff member, and the Organisation requires no proof on how the grant was utilised. It is not difficult to understand why contracts for less than a year carry a distinctly different set of entitlements from those of a year or longer. The arrangements one is likely to make when undertaking a move for a period of twelve months or more are considerably different and arguably more involved. The Rules

correctly envisage this difference and accommodate it. The logic of the Rules in respect of these grants, and the administrative issuances drafted to implement the Rules, is easily discernible. The Rules have clearly envisaged a situation in which a staff member is recruited for a period of less than one year, which appointment is subsequently extended to one year or more at the same duty station. Where an extension is so effected, the Rules provide for the staff member to receive the balance of what would have been paid had the initial appointment been for one year or longer. The concept of permanent residence or residence or being 'settled' does not therefore depend on how long a staff member has been in the country of his or her duty station. The Applicant was a resident of the United Arab Emirates only because he was employed by UNOPS. He moved to Dubai due to the exigencies of work to fulfil the terms of those contracts; and he stayed for the same reason. The Respondent's submissions do not contradict these facts. The Applicant was employed on a series of short contracts which kept him in the country for periods longer than any one of those contracts foresaw. In spite of the fact that he had been in Dubai for a cumulative period of three years at the time of his appointment under the 100 Series, it did not necessarily follow that he 'must have had a household.' It is certainly not within the contemplation of the relevant Staff Rules and administrative issuances cited and discussed above to speculate on such a possibility. It is for good reason that staff members who are adjudged to be entitled to the relocation grant and who indeed receive the said grant are not called to account for the manner of its expenditure. Whether they import 1,000 kilograms or more or less or infact nothing at all of their personal effects is effectively ignored by the Organisation.

Internationally recruited: One is appropriately considered 'internationally recruited' unless one has taken up permanent residence status in the country of the duty station. The Rules go so far as to provide that the benefits of international recruitment will attach if one renounces permanent residence for a 'non-immigrant status'.

Decision Contested or Judgment/Order Appealed

The Applicant contested UNOPS' decision not to pay him the assignment grant and other entitlements afforded to internationally recruited staff members under the former 100-Series of the Staff Rules.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

UNDT ordered the Respondent to pay the Applicant his assignment and relocation grants.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ianelli

Entity

UNOPS

Case Number(s)

UNDT/NBI/2009/027

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

7 Apr 2010

Duty Judge

Judge Izuako

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Relocation grant

Repatriation grant

Applicable Law

Staff Rules

- Rule 104.7
- Rule 107.20(i)

UNDT Statute

- Article 18.2