

UNDT/2010/070, Farraj

UNAT Held or UNDT Pronouncements

Since the applicant, in a timely manner, addressed his requests to competent officials within the former system of internal justice and followed the advice received from them, it was beyond his control that he did not file his request for administrative review within the time limits; therefore, exceptional circumstances are given. In view of the provision of the letter of appointment quoted above, no termination was possible without keeping a thirty days notice period. The decision to terminate the appointment with immediate effect is in noncompliance with the applicant's terms of appointment. The compensation the respondent may elect to pay as an alternative to the rescission should consider the duration of the appointment, had the unlawful decision not been taken. Compensation within article 10, paragraph 5 (b), of the UNDT Statute is restricted to financial means; if these are not requested, no other than financial compensation can be granted. Outcome: Rescission of the contested decision; compensation to be paid as an alternative to the rescission USD 45,000. No further compensation granted.

Decision Contested or Judgment/Order Appealed

The applicant held a one year appointment of limited duration (ALD). His letter of appointment included a provision reading: "This appointment may be terminated prior to its expiration date in accordance with the relevant provisions of the Staff Regulations and the Staff Rules, in which case both parties will give thirty days written notice. Should UNDP terminate the appointment prior to its expiration, the Administrator of UNDP, in addition to the thirty days notice will provide compensation in lieu of notice period." After 3 months the appointment was terminated by a letter effective the same day. Within the time limits for a request for review, the applicant requested assistance from the Office of the Joint Ombudsperson from which he finally received advice to contact the Panel of Counsel (PoC). The PoC told him a date for filing his request for administrative review, which the applicant respected. This request exceeded the time limit of former staff rule

111.2 (a). In the application before the Tribunal the applicant explicitly said that his request was not for financial compensation.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Farraj

Entity

UNDP

Case Number(s)

UNDT/GVA/2009/056

Tribunal

UNDT

Registry

Geneva

Date of Judgement

27 Apr 2010

Duty Judge

Judge Laker

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Appointment of Limited Duration

Compensation

In-lieu compensation

Termination (of appointment)

Applicable Law

Former Staff Rules

- Rule 111.2(a)
- Rule 111.2(f)

UNDT Statute

Related Judgments and Orders

UNDT/2009/052

UNDT/2010/009

UNDT/2010/019

UNDT/2010/031