

UNDT/2010/110, Koda

UNAT Held or UNDT Pronouncements

The panel report did not constitute a breach of the applicant's contractual rights and therefore no compensation is warranted. Such a panel is not a court and while it must be fair, it must be allowed to do its reasonable best to ascertain the facts as it thinks is right. Even though the audit was seriously flawed in significant respects, the decision as to its content is not subject to appeal to the Tribunal. Constructive dismissal occurs when the employer engages in a scheme of action which, in effect makes it so difficult for the employee to continue with his or her work, that the latter has no realistic option but to resign. Outcome: The judge declined to quash the report of the panel for formal shortcomings. The judge held there was no constructive dismissal. The application was dismissed.

Decision Contested or Judgment/Order Appealed

The applicant claimed constructive dismissal because her position had become untenable following an investigation into allegations concerning her conduct made by staff members in her office. She believed her contract would not be renewed and therefore resigned. In fact, it had been renewed at the last moment but she was not informed of this. The adverse confidential report of the panel that was formed to consider the allegations, which was never shown to the applicant, was quoted in an audit report which was made public. The applicant claimed that her treatment was a breach of the Organization's inherent obligation of good faith and fair treatment and that her personal and professional reputation was damaged by the release of defamatory information into the public domain.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Koda

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/047/JAB/2008/091

Tribunal

UNDT

Registry

New York

Date of Judgement

24 Jun 2010

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Dismissal/separation

Due process

Applicable Law

Administrative Instructions

- ST/AI/371