

UNDT/2010/129, Valle Fischer

UNAT Held or UNDT Pronouncements

The applicant was not separated because of an organisational necessity neither because of the expiry of his short-term contract -he did not have a signed contract. He was separated because of a disciplinary measure following the findings of the selection panel. The separation of the applicant was unlawful for two reasons: the decision was made without proper delegated authority (the authority to terminate a short-term appointment as a result of disciplinary measures has not been delegated by the Secretary-General in accordance with ST/AI/234/Rev.1) and the process was in violation of the rules governing separation as a disciplinary measure, including former staff rule 310.1. Outcome: The applicant was awarded six weeks' net base salary in lieu of notice minus the one week's notice he had already received. He was further awarded for non-material harm the equivalent of one year's net base salary, minus the two months' compensation awarded by the Secretary-General which he had already received. Both payments were to be based on the applicant's net base salary at the time of his separation. There was no order for costs.

Decision Contested or Judgment/Order Appealed

The applicant was employed as a Security Officer at the G-2 level by the Security and Safety Section of UNOG on a number of short-term contracts from February 2000 until his separation in February 2006. While still employed, he applied for an advertised vacancy at the G-3 level. He was interviewed but not selected. As of January 2006, the applicant was working without a written contract on the belief that such an appointment would be valid until March 2006. The selection panel found that the applicant lacked competence and the core value of integrity required to hold the position of a security guard. The panel also recommended against the continuing employment of the applicant. Based on this information, it was decided to separate him in February 2006.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Valle Fischer

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/014

Tribunal

UNDT

Registry

Geneva

Date of Judgement

21 Jul 2010

Duty Judge

Judge Shaw

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Staff selection (non-selection/non-promotion)

Termination (of appointment)

Applicable Law

Administrative Instructions

- ST/AI/234/Rev.1

Former Staff Rules

- Chapter IX
- Chapter X
- Rule 309.2
- Rule 309.3
- Rule 309.4
- Rule 310.1

Information Circulars

- UNOG/IC/2003/17

Related Judgments and Orders

UNDT/2010/044