

UNDT/2010/206, Leboeuf et al.

UNAT Held or UNDT Pronouncements

The main issue was whether time taken off during part of the workday should be counted towards the “scheduled workday” and actual work (“hours of work”) requirements when calculating compensatory time off or additional payment for overtime. UNDT found that time spent on annual leave, sick leave, or compensatory time off is not included in the actual work time, but is counted towards the scheduled workday. UNDT found that DGACM’s application of Appendix B to the former Staff Rules was correct and that the Applicants failed to explain how the allegedly unlawful amendments to DGACM’s policy and practice were in violation of the former Staff Rules.

Decision Contested or Judgment/Order Appealed

Department’s interpretation and application of the Organization’s rules on compensation for overtime work

Legal Principle(s)

Intervention and joining of a party: Requests for administrative review and management evaluation are mandatory first steps in the appeal process. This requirement cannot be circumvented by permitting staff members who have not filed a request for administrative review or management evaluation to appear as applicants before the Tribunal by way of intervention or joinder. Scheduled workday: Scheduled workday is the duration of the working hours in effect at the time on any day of the scheduled workweek, less one hour for a meal. In the United Nations Secretariat, the normal working hours are eight hours per day, except during the regular session of the General Assembly, when they are eight and a half hours per day. Pursuant to sec. 2 of ST/AI/408, scheduled workday consists of the “core” period of six hours (10 a.m. to 4 p.m.) and the flexible period of two or two and one-

half hours of work. In other words, depending on the individual needs of a staff member and the requirements of service, an eight-hour scheduled workday may begin as early as 8 a.m., in which case it would end at 4 p.m. and any work outside these hours would be considered overtime, or it could commence as late as 10 a.m., in which case it would end at 6 p.m. and any work outside these hours would be considered overtime. Working, work: There is a plain distinction between working—which requires being on duty and performing work functions—and taking time off work. Authorised leave or compensatory time off are valid grounds, defined by law, to be absent from work and to not perform one's duties (that is, to be off work), while still being a staff member. Thus, time on annual leave, sick leave, or compensatory time off is not included in the "hours of work". If a staff member takes half-day off as annual or sick leave or as compensatory time off, and works on that day beyond the scheduled workday, he or she would get compensatory time off after working beyond the scheduled workday and up to eight hours of actual work, but he or she would start receiving payment for any additional overtime work only after having reached eight hours of actual work that day. Compensatory time off: Work in excess of the scheduled workday and up to eight hours of actual work throughout the entire day will be compensated in the form of an equal amount of compensatory time off. Additional payment as compensation for overtime: Work in excess of eight hours will be compensated in the form of an additional payment. For a staff member to be eligible for a payment for overtime he or she must have actually worked more than eight hours that day, not including time taken off. Core period: Staff members are normally expected to be present during a core period of the working day (10 a.m. to 4 p.m.) and the remaining hours of work may be scheduled at any time before or after the core period.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Leboeuf et al.

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/103

Tribunal

UNDT

Registry

New York

Date of Judgement

30 Nov 2010

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Annual leave

Compensation

Applicable Law

Administrative Instructions

- ST/AI/2005/2

- ST/AI/2005/3
- ST/AI/408

Former Staff Rules

- Appendix B
- Rule 103.13
- Rule 106.2(a)

Information Circulars

- ST/IC/2008/46
- ST/IC/2009/31
- ST/IC/2010/24

Secretary-General's bulletins

- ST/SGB/2002/1

UNDT RoP

- Article 11

UNDT Statute

- Article 2.1
- Article 2.4
- Article 8.1

Related Judgments and Orders

UNDT/2010/165

UNDT/2010/043

2010-UNAT-058

2010-UNAT-061