

UNDT/2011/133, Dougherty

UNAT Held or UNDT Pronouncements

The Applicant claimed that: the decision was discriminatory and the decision-maker sought retribution for, inter alia, the Applicant's failure to choose the decision-maker's favoured candidate in a selection process; the matter was urgent due to the impending expiration of the Applicant's contract; and the decision would cause irreparable harm because the Applicant would lose his job and current livelihood. The Respondent contended that the application should be rejected outright because the Applicant did not pursue his claim with due diligence. The Respondent further argued that the Applicant had been on notice for the last two years that his contract could not be subject to a further renewal as a result of transitional measures in place in connection with the implementation of a contractual reform mandated by the General Assembly. The Respondent also argued that the Applicant's unwarranted delay in pursuing his claim had prejudiced the Respondent, giving him insufficient time to make meaningful submissions in reply. The Tribunal found that the Applicant was first informed of the decision not to renew his contract by email on 10 May 2011, reiterated by letter received on 10 June 2011, and that the Applicant failed to provide the Tribunal with a satisfactory explanation as to why the delay in filing his application to the Dispute Tribunal should not be attributable to him. The Tribunal also found that ongoing informal discussions were not a valid excuse for the Applicant failing to act timeously in bringing his application and thereby causing an avoidable urgency. Outcome: The Tribunal found the urgency to be self-created and rejected the application.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application for suspension of action of the administrative decision not to renew his fixed-term contract three days before it was due to expire.

Legal Principle(s)

Particular urgency: The test for an application for suspension of action is that there is an urgency which is not self-created.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Dougherty

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2011/058

Tribunal

UNDT

Registry

New York

Date of Judgement

22 Jul 2011

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Suspension of action / interim measures

Particular urgency

Applicable Law

UNDT RoP

- Article 13.3

UNDT Statute

- Article 2.1
- Article 2.2

Related Judgments and Orders

UNDT/2011/023

UNDT/2011/091

UNDT/2011/120