

UNDT/2011/186, Buckley

UNAT Held or UNDT Pronouncements

Prima facie unlawfulness: The Tribunal found in Villamoran UNDT/2011/126, that the mandatory 31-day break in service for staff between their fixed-term and temporary appointments, if not supported by law, is prima facie unlawful. The Respondent was ordered to provide evidence to support the decision but failed to do so. The evidence submitted neglected to show the publication date or the precise method of publication of the revised administrative instruction. The Administration has an obligation to properly announce amendments to Staff rules and regulations for decisions to be proper and made in good faith. A new administrative issuance on iSeek or other electronic systems is not appropriate notice due to the lack of internet access for many. The Administration's decision was therefore prima facie unlawful; Urgency: The Applicant was not given adequate notice to contest the decision. The decision was shared on 25 October 2011 and would take effect on 31 October 2011. The Applicant made the necessary submissions in a prompt and timely fashion, meeting the requirement of urgency; Irreparable harm: Unemployment for the mandatory one month period does present irreparable harm as found in paras.39 and 40 of Villamoran UNDT/2011/126. The break in service will Outcome: The Tribunal ordered the suspension of action, pending the management evaluation of the decision.

Decision Contested or Judgment/Order Appealed

The Applicant appealed the decision of a 31-day break in service between the end of his fixed-term appointment on 31 October 2011 and a new temporary appointment. The Applicant submits that the decision is prima facie unlawful, creates urgency, and irreparable harm. The Applicant also submits that the revision of ST/AI/2010/4/Rev. 1 was not communicated properly and so he was not aware of the decision to be implemented. The Respondent failed to fully comply with Order No. 256 (NY/2011). The Tribunal requested documentation to show the date on which the revised administrative instruction was published and the precise method of publication.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Buckley

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2011/083

Tribunal

UNDT

Registry

New York

Date of Judgement

31 Oct 2011

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Irreparable damage

Particular urgency

Prima facie unlawfulness

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1

Secretary-General's bulletins

- ST/SGB/2009/4

Related Judgments and Orders

UNDT/2011/126

UNDT/2011/176