

UNDT/2011/201, Rees

UNAT Held or UNDT Pronouncements

The Tribunal awarded: (a) two years' net base salary at the P-5 level and step which she had at the date of the non-extension of her appointment on 31 March 2010, plus the applicable post adjustment and the value of any quantifiable monetary entitlements and benefits to which she would have been entitled, plus the amount corresponding to the contributions that the Organization would have made to the United Nations Joint Staff Pension Fund and to a sum which represents the difference between what she would have paid in medical insurance at the United Nations and the medical insurance she actually had to pay since 31 March 2010 during the two years following her separation, the foregoing reduced by the net take-home pay which the Applicant has received and will receive in the period of two years following her separation from OHCHR, that is, up to 31 March 2012, and (b) four months' net base salary for emotional harm and distress, both with interest. It also ordered that an unlawful performance evaluation not be included in the Applicant's official status file. Amount of alternative compensation: In assessing the appropriate amount of compensation to be awarded on account of a non-renewal decision, the Tribunal must assess (i) the chances of the Applicant having her contract renewed but for the procedural breaches identified and (ii) the period of that renewal. The purpose is to place the Applicant in the position that she would have been but for the breach of her terms of appointment, as far as it is reasonably possible. Compensation for procedural failures: An award of damages for the Administration's failures to comply with its lawful obligations could be seen as punitive. The harm caused by procedural failures is acknowledged and compensated for under the remedies granted for damages arising from the decisions which were found to be unlawful as a result of the procedural flaws in question. Powers of the Tribunal to award remedies: Remedies such as making stop statements that occurred after the contested decisions and not as a result of them, do not fall within the ambit of the Tribunal's powers. Such an order would go beyond the Tribunal's authority to provide redress for unlawful administrative decisions.

Decision Contested or Judgment/Order Appealed

On 6 September 2011, the Tribunal issued Rees UNDT/2011/156, finding that the decisions to reassign the Applicant and, subsequently, not to renew her appointment were in breach of her terms of appointment. The parties were directed to file further submissions on compensation.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Rees

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/002

Tribunal

UNDT

Registry

Geneva

Date of Judgement

25 Nov 2011

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Non-pecuniary (moral) damages

Non-renewal

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/2002/3

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2011/156