

UNDT/2011/203, Allen

UNAT Held or UNDT Pronouncements

The Tribunal found that it is incumbent on the Organization to pay home leave travel expenses only for children who are declared and recognized as dependants of the staff member with whom they travel. Family members eligible for home leave travel: Staff rule 5.2(j), which provides that “[d]ependent children whose parents are staff members, each of whom is entitled to home leave, may accompany either parent”, must be interpreted in conjunction with staff rules 7.1 and 7.2. In doing so, it becomes clear that the Organization covers only the home leave travel expenses regarding children recognized as dependants of the staff member whom they accompany. For a child to have the possibility to accompany one parent or the other, he or she must be recognized as dependant of both staff members. Previous analogous errors: The fact that the Administration has mistakenly taken a different decision on previous occasions does not create any right for the staff member, given that the Administration must put an end to such errors. Discrimination: The interpretation made of the relevant staff rules does not entail any discrimination of children of non-married staff members. Indeed, all dependent children are treated in the same manner, that is, they may travel on home leave at the Organization’s expenses with a parent who recognized them as their dependants.

Decision Contested or Judgment/Order Appealed

Both the Applicant and his partner are United Nations staff members in the Professional category. They have a child who was claimed as a dependant by his partner only, and recognized as such by the Organization. In 2010, the Applicant requested payment of his child’s travel expenses under his home leave entitlement. This request was denied on the grounds that his child was not considered as his dependant.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Allen

Entity

UNCTAD

Case Number(s)

UNDT/GVA/2010/118

Tribunal

UNDT

Registry

Geneva

Date of Judgement

30 Nov 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Dependency benefits

Home leave

Discrimination and other improper motives

Applicable Law

Staff Rules

- Rule 5.2
- Rule 7.1
- Rule 7.2