

# UNDT/2011/217, Rosana

## UNAT Held or UNDT Pronouncements

A respondent who neglects to take part in the proceedings by not filing a reply within 30 days of receipt of the application may be readmitted by leave of the Tribunal only. The respondent in such a case is solely and effectively excluded by his own negligence to file a reply in time. He is not excluded by the Tribunal but by the operation of law. By his preposterous claim that the Registrar and the Judge owed him a duty to remind him of his obligations to his client, the Respondent's Counsel, sought, in the Tribunal's view, to provide an excuse for his own incompetence and lack of diligence. It must be clearly stated that no Counsel is owed a duty by the Registrar to be reminded about the necessity of complying with procedural rules. Article 10(2) of the Rules of Procedure of the Tribunal does not require the Registrar to advise Counsel on the legal conduct of his/her case but only on the "formal requirements" of submitting a reply. Having filed a submission within the requisite time limit and titling it "Motion for Dismissal", art. 10(2) did not require the Registrar to advise Counsel for the Respondent that he should have titled the document "Reply" and to have ensured that his legal arguments amounted to a Respondent's Reply within the meaning of art. 10(1). The Applicant was not entitled to set a date arbitrarily on which the Respondent's negative response would be presumed to be an implied administrative decision. The Applicant's request for management evaluation was made out of time and under art. 8(3) of the Tribunal's Statute, the Tribunal cannot suspend or waive the deadlines for management evaluation. Outcome: Judgment in favour of the Respondent. The Application is not receivable. In the circumstances, this Tribunal has no jurisdiction to entertain it.

## Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of the United Nations Environment Programme, is contesting an unwritten, administrative decision in which UNEP failed to upgrade her post from G5 level to G6 level in time for her to compete for it before her retirement date.

## Legal Principle(s)

N/A

## Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Rosana

Entity

UNEP

Case Number(s)

UNDT/NBI/2010/051

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

29 Dec 2011

Duty Judge

Judge Izuako  
Language of Judgment  
English  
Issuance Type  
Judgment  
Categories/Subcategories  
Jurisdiction / receivability (UNDT or first instance)  
Subject matter (ratione materiae)  
Applicable Law  
Staff Rules

- Rule 11.2 (c)
- Rule 11.2(a)

#### UNDT RoP

- Article 10.1
- Article 2

#### UNDT Statute

- Article 8.1
- Article 8.3

#### UNAT Statute

- Article 2.1(a)

#### Related Judgments and Orders

UNDT/2011/140  
2010-UNAT-062  
UNDT/2009/060