

UNDT/2012/031, O'Hanlon

UNAT Held or UNDT Pronouncements

Starting date of the 90-day time limit to file an application: The UNDT Statute, which prevails in case of contradiction with the Staff Rules as it is superior in the hierarchy of norms, prescribes that an application before the Tribunal must be filed within 90 days following receipt of the Administration's response to the request for management evaluation or, if the Administration has not replied to such request, following the expiry of the relevant response period for the management evaluation. If the Administration replies after the response period for the management evaluation but before the expiry of the 90-day period, the 90-day period to file an application before the Tribunal starts running again from the date the response is given. Interpretation of clear provisions: It is not for the Tribunal to interpret an unambiguous provision. Eligibility criteria for consideration for conversion to permanent appointment: As per section 1 of ST/SGB/2009/10, only fixed-term appointments under the 100 series of the former Staff Rules qualify for the purposes of calculating the five years of continuous service required to be eligible for consideration for conversion to a permanent appointment. UNRWA Staff Rules and Regulations do not provide for the said type of appointment.

Decision Contested or Judgment/Order Appealed

The Applicant worked under a fixed-term appointment at UNRWA, before being transferred to the Secretariat in 2005. In the context of the one-time review for consideration for conversion to permanent appointment, he claimed to meet the requirements for conversion, in particular, the five years of continuous service on a fixed-term appointment under the 100 series of former Staff Rules. However, the Administration considered, and the Tribunal upheld this view, that his service with UNRWA should not be counted for this purpose, as he did not have during this period the type of contract required by ST/SGB/2009/10. UNRWA has its own and distinct Staff Regulations and Rules, and they do not foresee 100-series appointments.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

O'Hanlon

Entity

UNOV

Case Number(s)

UNDT/GVA/2011/46

Tribunal

UNDT

Registry

Geneva

Date of Judgement

28 Feb 2012

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Permanent appointment

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Laws of other entities (rules, regulations etc.)

- Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations Applying the United Nations Common System of Salaries and Allowances (CEB/2003/HLCM/CM/7)

Other UN issuances (guidelines, policies etc.)

Secretary-General's bulletins

- ST/SGB/2009/10

Staff Rules

- Rule 11.4

UNDT Statute

- Article 8.1

Related Judgments and Orders

UNDT/2010/179