

UNDT/2012/175, Robineau

UNAT Held or UNDT Pronouncements

Receivability *ratione temporis*: The 60-day period specified in staff rule 11.2 to request management evaluation starts to run from the date of notification of a final decision. Applicable law: While annual leave entitlements are accrued on a monthly basis, the right to be compensated for accrued annual leave arises at the time when the staff member is separated from service. Thus, in assessing the lawfulness of a decision denying payment of annual leave, the Tribunal must take into consideration the provisions in effect at the date of the staff member's separation from service.

Decision Contested or Judgment/Order Appealed

From 1989 to 1997, the Applicant, who was employed under a series of short-term appointments, was separated several times upon the expiration of his contracts and subsequently re-employed after a break-in-service. On each separation, he was paid his accrued annual leave. As from 1998, the Applicant was re-employed under a fixed-term appointment which was extended until his retirement in 2011. During this last employment period, he accrued 60 days of annual leave. Before the UNDT, the Applicant challenged the decision to deny him payment of these 60 days of annual leave upon his separation on retirement. The UNDT noted that the Applicant had been informed on 3 June 2011 that he had been paid the maximum annual leave entitlement upon previous separations from service. However, it considered that a final decision was taken only on 20 October 2011 and it accordingly deemed the application receivable. On the merits, the UNDT found that, according to the applicable provisions, that is, staff rules 4.17 and 9.9 in effect at the time of the Applicant's retirement, the Applicant's service was to be regarded as having been continuous. As a result, the Tribunal found that, since the Applicant had already been paid the maximum annual leave entitlement upon his successive separations before 1998, the Administration was correct in denying him further compensation for the 60 days he had accrued during his last employment period.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Robineau

Entity

ECE

Case Number(s)

UNDT/GVA/2012/47

Tribunal

UNDT

Registry

Geneva

Date of Judgement

8 Nov 2012

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Annual leave

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2
- Rule 4.17(c)
- Rule 9.9