

UNDT/2012/191, Ainte

UNAT Held or UNDT Pronouncements

Reason to believe: that a staff member has engaged in unsatisfactory conduct is buttressed by a fact-finding, which in turn creates the requirement to investigate. Fact-Finding: fact-finding process is the collection and analysis of information to determine the veracity of an allegation against a staff member. It is a prerequisite for an investigation and cannot replace an investigation. As such cannot be used as the basis for imposing a disciplinary measure. Investigation: A disciplinary process can only be initiated based on proper official investigation being conducted under ST/AI/371.

Decision Contested or Judgment/Order Appealed

The Organization imposed a disciplinary measure on the Applicant of separation from service with compensation in lieu of notice and with termination indemnity on grounds of making material misrepresentation in his PHP. The Applicant challenged this decision on grounds that his due process rights were violated, there was no investigation into the allegations and that his assistant who filled in his PHP for him made an honest mistake.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal found for the Applicant and ordered rescission of the decision, reinstatement and compensation in lieu of reinstatement and awarded the Applicant compensation for due process rights violations.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ainte

Entity

UNAMID

Case Number(s)

UNDT/NBI/2011/005

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

5 Dec 2012

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Investigation

Due process

Fact-finding investigation

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/371

Other UN issuances (guidelines, policies etc.)

- OIOS Investigations Manual

Secretary-General's bulletins

- ST/SGB/2011/1

Staff Rules

- Rule 10.3(a)

UNDT Statute

- Article 10.5(a)

Related Judgments and Orders

UNDT/2010/001

UNDT/2011/081

2010-UNAT-100

2011-UNAT-123