

# **UNDT/2012/205, Rafii**

## UNAT Held or UNDT Pronouncements

The UNDT found that the Applicant's claims with regard to the issue of lien and loan were without merit. With respect to the issue of placement on special leave without pay, the UNDT found that the Applicant should have been placed on sick leave on half salary and half annual leave for a period of up to three months. The UNDT ordered the Respondent to make appropriate adjustments, including any related payments and adjustments to benefits and entitlements, to reflect the placement of the Applicant on three months of sick leave on half pay combined with half-day of annual leave commencing 22 March 2012, bearing in mind sec. 3.6(b) of ST/AI/2005/3.

## Decision Contested or Judgment/Order Appealed

The Applicant, a staff member of the United Nations Assistance Mission in Afghanistan ("UNAMA"), contests two decisions. Firstly, she contests UNAMA's refusal to grant her a lien on her post to enable her to work in another office on a non-reimbursable loan/temporary duty assignment. Secondly, the Applicant contests UNAMA's decision to calculate her absence from work starting 1 May 2012 against her annual leave instead of her sick leave, and the subsequent decision to place her on special leave without pay commencing 5 June 2012.

## Legal Principle(s)

Redaction of name, anonymity: Even though motions for anonymity or confidentiality must be decided on a case-by-case basis, the granting of same without sufficient reason has the potential to not only invite requests of this kind in every matter, but to negate a key element of the new system of administration of justice—its transparency. It is essentially a question of weighing the public interest against the private interest. Sick leave: If a staff member is not fit to perform her

work, this may be sufficient basis to place her on sick leave under staff rule 6.2. Following exhaustion of sick leave on full pay, the affected staff member may be placed on sick leave on half pay, combined with half-day of annual leave, during which period annual leave will continue to accrue as per ST/AI/2005/3.

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

Only specific performance (including rescission with in lieu compensation)

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Rafii

## Entity

UNAMA

## Case Number(s)

UNDT/NY/2012/076

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

24 Dec 2012

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Benefits and entitlements

Sick leave

Special leave (with or without pay)

Reassignment or transfer

## Applicable Law

Administrative Instructions

- ST/AI/2005/3

Staff Rules

- Rule 11.2
- Rule 6.2

UNDT Statute

- Article 8.1

## Related Judgments and Orders

UNDT/2012/082

UNDT/2012/127

2010-UNAT-049

2012-UNAT-210