

UNDT/2013/036, Arigi-Oikelomen

UNAT Held or UNDT Pronouncements

Due process: The evaluation of the Applicant's performance for the 2008/2009 reporting cycle was not carried out in accordance with the established procedures and materially discredits the Respondent's case. UNON had an obligation to defer the non-renewal decision until the rebuttal process had been completed but failed to do so. This was a violation of the Applicant's due process rights. Bad faith: The negative relationship between the Applicant's former FRO and SRO was contributory to the non-renewal of the Applicant's contract. The Applicant's SRO demonstrated ill-motive and unethical conduct when, after the Applicant's separation from service, she decided to personally "investigate" the Applicant's qualifications. Her efforts to introduce the purported results of this investigation into evidence constituted an abuse of the process of the Tribunal.

Decision Contested or Judgment/Order Appealed

The Applicant is contesting a decision dated 16 September 2009 separating her from service on 1 November 2009 on the basis of performance shortcomings.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Both financial comp. and specific performance

Full judgment

[Full judgment](#)

Applicants/Appellants

Arigi-Oikelomen

Entity

DSS

Case Number(s)

UNDT/NBI/2011/020

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

28 Feb 2013

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Reason(s)

Performance management

Rebuttal

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/2002/3

UNDT RoP

- Article 15

UNDT Statute

- Article 10.5(a)

Related Judgments and Orders

UNDT/2013/032

UNDT/2009/088

UNDT/2010/049

UNDT/2010/213