

UNDT/2014/109, Harrich

UNAT Held or UNDT Pronouncements

The application was dismissed in its entirety. The Tribunal also found that the Applicant has manifestly abused the proceedings before it. The Applicant was ordered to pay costs in the sum of USD 2,000 for abuse of process. On receivability: The Tribunal found that the PDF version of the application attached to the email of 15 September 2012, also copied to OHRM and EO/OCHA, met the requirements of art. 8 of the Rules of Procedure of the Dispute Tribunal. It was moreover identical to the application filed through the e-filing portal on 15 October 2012. The Respondent's contention that the claim is not receivable, notwithstanding his receipt both of the Tribunal's email of 15 October 2012 and of Order No. 86 (NY/2014), is devoid of merit and is dismissed as being frivolous. On the repatriation entitlement: The Administration correctly concluded that since the requirement of relocation was not met, the Applicant was not eligible for a repatriation grant. The Applicant's contention that no secondment had taken place between OCHA and CTBTO was inconsistent with the facts and was misguided in law. The Applicant was fully aware of the nature of his contractual relationship with the Organization between June 2011 and December 2011. When he submitted his notice of resignation, on 19 December 2011, he was still residing in Vienna as he was serving as a human resources officer in CTBTO under secondment. Further, the Applicant's contention disregards the prerequisite for eligibility in staff rule 3.18 that while serving at the last duty station, the staff member must have resided outside his recognized country of nationality. With respect to the Applicant's claim for the payment of a lump sum in lieu of shipment or relocation grant, the Applicant was not entitled to receive another relocation grant since he had already benefited from payment of a lump-sum in lieu of shipment upon taking up his duties in Kinshasa. Further, the Applicant has received relocation assistance upon relocating to Vienna, which in view of the record before the Tribunal, disentitled him from claiming further payments pursuant to staff rule 7.15(h) in relation to his return to his country of nationality. The Tribunal found that in the absence of relocation from New York to Vienna, the Administration was correct in concluding that the Applicant was not

entitled to relocation grant upon separation from his position in OCHA. On abuse of process: The Tribunal found that the Applicant has manifestly abused the proceedings before it. The repetitive failure of the Applicant to comply with the Tribunal's orders and to fully substantiate his claims, notwithstanding the advice given at the case management discussion (CMD), added to the violation of the Tribunal's order in filing unauthorized additional and largely irrelevant submissions, amounted to an abuse of process. The Tribunal considered that an award of costs was appropriate under art. 10.6 of the Statute against the Applicant.

Decision Contested or Judgment/Order Appealed

The decision made by the Office of Human Resource Management ("OHRM") not to grant the Applicant the repatriation grant and/or lump sum shipment which he says he was entitled to on separation from the Executive Office, Office for the Coordination of Humanitarian Affairs ("OCHA").

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Harrich

Entity

OCHA

Case Number(s)

UNDT/NY/2012/80

Tribunal

UNDT

Registry

New York

Date of Judgement

1 Aug 2014

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Manifest abuse

Benefits and entitlements

Repatriation grant

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Administrative Instructions

- ST/AI/2006/5

Secretary-General's bulletins

- ST/SGB/2011/1

Staff Regulations

- Regulation 9.4

Staff Rules

- Rule 3.18
- Rule 7.15(h)

UNDT RoP

- Article 7.1(b)
- Article 8(d)(i)

UNDT Statute

- Article 10.6

Related Judgments and Orders

2012-UNAT-260

2013-UNAT-325

2013-UNAT-331

2013-UNAT-345

2012-UNAT-275