

UNDT/2014/135, James

UNAT Held or UNDT Pronouncements

The Tribunal dismissed the Application because the Applicant has not exhausted the reconsideration procedure set out in article 17(a) of Appendix D to the Staff Rules. Further, he did not request management evaluation of the negligence claim.

Response to the Respondent's Reply: In granting a request to submit a response to a Reply, the Tribunal weighs factors such as: (i) whether the Respondent raised issues or facts that were not addressed in the Applicant's pleadings; (ii) whether the Applicant failed to adequately canvass all the issues raised in his/her pleadings; or (iii) whether allowing such a response will assist the Tribunal to fairly and expeditiously dispose of the matter and do justice to the parties.

Request for reconsideration: The Tribunal accepted the Applicant's assertion that he had not received the ABCC decision rejecting his claim for compensation especially in light of the Respondent's inability to provide documentation that the decision had been communicated to the Applicant. Since the Applicant's compensation claim has not been subjected to reconsideration by the ABCC, the Tribunal is not competent to entertain his Application. However, due to the exceptional circumstances of this case, the Tribunal decided that the Respondent should correct the omission of not providing the Applicant with a copy of the ABCC decision by doing so by 28 November 2014.

Decision Contested or Judgment/Order Appealed

The Applicant contested the rejection of his compensation claim by the Advisory Board on Compensation Claims and UNMIL's negligence in referring him to a sub-standard medical facility for cataract surgery.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

James

Entity

UNMIL

Case Number(s)

UNDT/NBI/2013/44

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

19 Nov 2014

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Compensation for injury, illness or death attributable to service (Appendix D to Staff Rules)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2(b)

UNDT RoP

- Article 19

UNDT Statute

- Article 8.1(c)

Related Judgments and Orders

UNDT/2012/052

UNDT/2014/018

2010-UNAT-013

2013-UNAT-300

2013-UNAT-342

2013-UNAT-349