

UNDT/2015/051, Applicant

UNAT Held or UNDT Pronouncements

The UNDT reviewed the procedure followed by the ASG/OHRM to reach her decision to close the complaint, and found that although the Chief, JMS, did not follow the correct procedure of consulting with the UN Medical Director about the request for the Applicant not to attend work, it was open to the ASG/OHRM to conclude that the conduct of the Chief, JMS, did not warrant any disciplinary or administrative action. Indeed, the Tribunal considered that the Chief, JMS, faced a complex situation, which included the Applicant's illness and the potential for disrupting patients of the JMS clinic. The Tribunal found that the decision not to take any action against the Chief, JMS, rested on the ASG/OHRM based on her consideration of the facts contained in the fact-finding panel's report. The decision was, however, marred by delay since it was only conveyed to the Applicant seven months after the second investigation into her complaint commenced; hence, the Tribunal awarded the Applicant USD3,000 compensation for moral damage.

Decision Contested or Judgment/Order Appealed

The Applicant appealed the conclusion reached by the ASG/OHRM on her complaint of harassment filed against her supervisor, the Chief, Joint Medical Services ("JMS") at UNON.

Legal Principle(s)

Review of decisions based on ST/SGB/2008/5: - The UNDT may not conduct a fresh investigation into the allegations of harassment, but may draw its own conclusions from the panel's report and determine if there was a proper investigation into the allegations.- A request for information from the ASG/OHRM, following the receipt of the fact-finding panel's report and addressed to the Chief, JMS, and the Director of Medical Services Division, regarding the reasons for requesting the Applicant to

obtain a medical report attesting to her fitness for duty and not to enter UNON premises, is tantamount to a request for clarification of the reasons for the facts as found by the investigation, and does not undermine the investigation; hence, it is lawful and does not constitute a breach of the Applicant's due process rights.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UNON

Case Number(s)

UNDT/GVA/2014/47

Tribunal

UNDT

Registry

Geneva

Date of Judgement

16 Jun 2015

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Disciplinary matters / misconduct

Harassment (non-sexual)

Due process

Applicable Law

Administrative Instructions

- ST/AI/2011/3

Secretary-General's bulletins

- ST/SGB/2008/5

Staff Rules

- Rule 6.2

UNDT Statute

- Article 10.5(b)

Related Judgments and Orders

2014-UNAT-483

2011-UNAT-123
2015-UNAT-518
2010-UNAT-100
2015-UNAT-505
2013-UNAT-292