

# UNDT/2015/090, Bresson-Ondieki

## UNAT Held or UNDT Pronouncements

The UNDT found that the Applicant did not meet the requirements of staff rule 3.6 and ST/AI/2011/5 and could not claim dependent child status for her niece. The application was dismissed.

## Decision Contested or Judgment/Order Appealed

The Applicant, a P-5 level staff member with the Department for General Assembly and Conference Management in New York, contested the refusal of the Office of Human Resources Management of the Department of Management to recognize her niece as a dependent child.

## Legal Principle(s)

Impossibility of adoption: The phrase “a child who cannot be legally adopted” in staff rule 3.6 is applicable only in the absence of any adoption system whatsoever in the country, be it in the civil courts or customary courts. Legitimate expectation: Legitimate expectation may result in the creation of an enforceable legal right, although the application of the doctrine is subject to a number of qualifications. A legitimate expectation giving rise to contractual or legal obligations occurs where a party acts in such a way, by representation by deeds or words, that is intended or is reasonably likely to induce the other party to act in some way in reliance upon that representation, and the other party does so. Where a staff member claims that she had a legitimate expectation arising from a promise made by the Administration, such expectation must not be based on mere verbal assertions, but on a firm and express commitment made individually to the staff member by a competent authority of the Administration.

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Bresson-Ondieki

## Entity

DGACM

## Case Number(s)

UNDT/NY/2014/63

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

24 Sep 2015

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

TEST -Rename- Benefits and entitlements-45  
Dependency benefits

## Applicable Law

Administrative Instructions

- ST/AI/2011/5

Staff Rules

- Rule 3.6

## Related Judgments and Orders

UNDT/2012/009

UNDT/2013/090

UNDT/2012/185

2011-UNAT-138

2011-UNAT-153

2014-UNAT-411