

UNDT/2016/001, Syrja

UNAT Held or UNDT Pronouncements

Material facts: The Tribunal noted that the decision letter, the minutes of the UNCB meetings and the evidence of the Secretary of the UNCB showed that the UNCB acted on the understanding that in spite of its date, the Applicant's 7 December 2010 inventory list had been prepared after the event and that there was no evidence of the Applicant's personal possessions that predated it. The Tribunal found that such evidence existed and was available to the UNCB. Consequently, the Tribunal concluded that the UNCB did not take into account all material facts relating to the Applicant's claim for compensation. Criterion for assessing compensation: The Tribunal noted that the UNCB decided that the Applicant's inventory lists were dated and stamped after the loss and in the absence of corroboration and proof of loss recommended approval of the "minimum necessary for mission life". The Tribunal concluded that there is no written policy or rule that empowers the UNCB to invoke that test for approving compensation. Thus, the UNCB test did not conform with the entitlement of staff members either under staff rule 6.5 to "reasonable compensation in the event of loss or damage to their personal effects determined to be directly attributable to the performance of duties on behalf of the UN" or under paragraph 8 of ST/AI/149/Rev. 4 which refers to articles reasonably required by the staff member for day-to-day life under the conditions existing in the duty station. Legitimate expectation: The Tribunal concluded that the Applicant did not receive an express promise from the Secretary of the Local Claims Review Board that the affected staff members would be reimbursed for all their losses.

Decision Contested or Judgment/Order Appealed

The Applicant contested a decision of the United Nations Claims Board (UNCB) to deny his claim for compensation for personal effects looted and/or destroyed at his residence in Daloa following post-election violence in Côte d'Ivoire.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal concluded that the contested decision was unlawful because the decision-maker did not take into account a material fact and the UNCB recommended an award of compensation on the basis of a test that did not conform to that required by the Staff Rules and ST/AI/149/Rev.4. Accordingly, the Tribunal remanded the case back to UNCB for it to reconsider the Applicant's claim.

Full judgment

[Full judgment](#)

Applicants/Appellants

Syrja

Entity

Other peacekeeping mission

Case Number(s)

UNDT/NBI/2014/021

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

6 Jan 2016

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Evidence

Applicable Law

Administrative Instructions

- ST/AI/149/Rev.4

Secretary-General's bulletins

Staff Rules

- Rule 6.5

Related Judgments and Orders

2014-UNAT-433

2015-UNAT-601