

UNDT/2016/044, Jean

UNAT Held or UNDT Pronouncements

The Respondent submitted that the application was not receivable because the Applicant did not submit a request for management evaluation within 60 days of receiving notification of the contested decision, as required by the Staff Rules. The Respondent produced minutes of four meetings held in June 2014, submitting that in the three of the four meetings, the Applicant was informed that her fixed-term appointment would expire and would not be renewed. The Applicant contested the accuracy of the minutes. A hearing on receivability was held at which each of the participants in the June 2014 meetings gave evidence. Based on the evidence before the Tribunal, including the minutes of the meetings, and the testimony of the witnesses, the Tribunal concluded that the Applicant was indeed verbally informed in the meetings of 11, 12, and 19 June 2014 that her fixed-term appointment in the OSAA would expire on 31 August 2014. The Tribunal found, therefore, that the Applicant's request for management evaluation was submitted after the 60-day time limit established by staff rule 11.2(c) had expired. The Tribunal found that the application was not receivable *ratione materiae*.

Decision Contested or Judgment/Order Appealed

The Applicant, a former Office Assistant at the G-4 level in the Office of the Special Advisor on Africa ("OSAA") and current staff member in the Office for Disarmament Affairs, filed an application contesting the decision not to renew her fixed-term appointment in the OSAA, and to separate her from service.

Legal Principle(s)

On whether staff rule 11.2(c) requires written notification to be provided to a staff member before the time limit for requesting management evaluation begins to run After comparing [current staff rule 11.2(c) to former staff rule 11.2(a)], the

Tribunal considers that staff rule 11.2(c), which has remained the same since it took effect on 1 July 2009, no longer includes the mandatory requirement for the administrative decision to be notified in writing, and from a plain interpretation of staff rule 11.2(c), it results that the provision is generally applicable to all administrative decisions, except the ones of staff rule 11.2(b). The Tribunal concludes that since there is no longer an express stipulation in staff rule 11.2(c) as to how notification must be given, a notification of the contested decision can be either verbal (oral) and/or in writing.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Jean

Entity

OOSA

Case Number(s)

UNDT/NY/2014/73

UNDT/NY/2014/73/R1

Tribunal

UNDT

Registry

New York

Date of Judgement

26 Apr 2016

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Temporal (ratione temporis)

Non-renewal

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/1998/9

Secretary-General's bulletins

- ST/SGB/2009/7

Staff Rules

- Rule 11

UNDT RoP

- Article 35
- Article 7

UNDT Statute

- Article 2
- Article 3
- Article 8