

UNDT/2016/096, Porter

UNAT Held or UNDT Pronouncements

United Nations core competency of Communication - Due to sheer incompetence and inefficiency, the Respondent's agents did not exhibit professionalism when they failed in their duty to give proper, timely and accurate information regarding his employment and health status to the Applicant. They failed also to exhibit the core competency of communication which is required of every staff member.

Requirement to file a management evaluation request - The new claims the Applicant sought to be allowed to introduce as part of this case which was instituted in 2012 are separate and distinct issues which cannot form part of the instant case. Moreover, the new claims and developments ought to be first referred to management evaluation.

Decision Contested or Judgment/Order Appealed

In his Application dated 21 February 2012, the Applicant challenges three issues that arose from the circumstances of a prolonged medical leave that spanned a period of more than two years. These issues are: (a) a decision taken by UNAMI administration to keep him on medical leave for more than two years after his doctors had recommended that he was fit to return to work; (b) during the period of his forced medical leave, the Administration ignored his pleas for information and misled him thereby causing him untold stress and hardship; and (c) failure by the Administration to reimburse financial claims that accrued to him as a result of the forced medical leave. The Tribunal found that the Applicant should have returned to work upon receiving medical clearance on 30 November 2009. The Tribunal ordered the Respondent to pay the Applicant his full salary from 30 November 2009 to 1 August 2011 (less any payments that had been made to him such as full salary and half salary during the said period.) In calculating payments due to the Applicant, the hazard pay component of his salary is not to be included since he was in fact outside of the mission area during the period. The Tribunal was also convinced by the submissions made by the Applicant that the prolonged sick leave caused him

anxiety and had a devastating effect on his personal and financial affairs including his failure to meet his mortgage obligations and awarded the Applicant USD 5,000 as moral damages. The Respondent was ordered to grant the Applicant access to his personnel files in accordance with the relevant administrative practice.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Porter

Entity

UNAMI

Case Number(s)

UNDT/NBI/2012/12

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

1 Jul 2016

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Sick leave

Compensation

Non-pecuniary (moral) damages

Management Evaluation

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

UNJSPF Regulations

- Article 33

Related Judgments and Orders

2012-UNAT-198