

UNDT/2016/180, Likukela

UNAT Held or UNDT Pronouncements

The UNDT found that it does not have jurisdiction to review the medical opinion expressed by the Medical Services Division, as requested by the Applicant, and dismissed the application in its entirety. Procedure for challenging a decision taken pursuant to Appendix D: A claimant may either challenge a decision taken by the Secretary-General upon recommendation from the ABCC by seeking reconsideration under art. 17 of Appendix D or by appealing it before the Dispute Tribunal. However, the two avenues offer different prospects. Reconsideration under art. 17 of Appendix D: The reconsideration procedure under art. 17 of Appendix D essentially provides for a review of the medical aspects of the case, through the constitution of a medical board composed of three medical practitioners qualified to make expert recommendations to the ABCC. Judicial review of decisions taken pursuant to Appendix D: The Dispute Tribunal shall examine whether the proper procedure had been followed but it cannot put itself in the place of a medical expert or the decision-maker. The Dispute Tribunal is not competent to make medical findings.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision by the Secretary-General to approve the recommendation of the Advisory Board on Compensation Claims (“ABCC”) rejecting her claim for compensation under Appendix D of the Staff Rules (“Appendix D”) for alleged injuries incurred during the course of a medical examination conducted at UNMIT on 3 August 2011.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Likukela

Entity

UNMIT

Case Number(s)

UNDT/GVA/2015/169

Tribunal

UNDT

Registry

Geneva

Date of Judgement

30 Sep 2016

Duty Judge

Judge Downing

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Compensation for injury, illness or death attributable to service (Appendix D to Staff Rules)

Standard of review (judicial)

Judicial review (general)

Applicable Law

Staff Rules

- Appendix D
- Rule 11.2(b)

UNDT Statute

- Article 11.6

Related Judgments and Orders

UNDT/2011/174

UNDT/2016/023

2010-UNAT-084

2015-UNAT-601

UNDT/2016/059

UNDT/2012/167

UNDT/2012/094

UNDT/2014/133