

UNDT/2016/208, Norley

UNAT Held or UNDT Pronouncements

The UNDT found that there was change of official duty station and that, as a result, the application of Entebbe's post adjustment rate and payment of DSA for only 30 days were lawful. The Tribunal also dismissed all the other Applicant's contentions. As a preliminary matter, the Tribunal examined the receivability of the application given that the parties disagreed on the date on which the Applicant ought to have known of the decision. The Tribunal found that the application was receivable. Receivability – Notification of an administrative decision: The Administration is obliged to communicate its decisions in a clear and unambiguous manner, particularly if the administrative decision affects a staff member's entitlements. There must be certainty and clarity as to what is the decision being notified so that a staff member is in possession of actual knowledge of the precise decision that affects the terms of his/her contract. Staff members should not be expected to have to read different communications and draw inferences in this regard. When determining the date on which notification occurred, the Tribunal must consider the entire circumstances surrounding communications as held by the Appeals Tribunal. Change of official duty station: a change of official duty station pursuant to staff rule 4.8 only requires assignment from a duty station to a UN field mission. Normative hierarchy: an administrative instruction cannot limit the scope of a staff rule. Application of a post adjustment rate: under staff rule 3.7, the Secretary-General has discretion to either opt for the payment of subsistence allowance or to "install" a staff member upon assignment. The exercise of this discretion does not require that there be a "benefit" to the staff member.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions to a) pay him daily subsistence allowance ("DSA") only for an initial period of 30 days upon his temporary assignment to Entebbe (Uganda), and b) calculate his post adjustment during the temporary assignment at the rate applicable to Entebbe (Uganda) instead of that applicable to

Monrovia (Liberia), which was his duty station upon initial recruitment. The Applicant contended that since there had not been an official change of his duty station, the Administration had no right to alter his post adjustment rate from that of Monrovia to the one in Entebbe.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Norley

Entity

OIOS

Case Number(s)

UNDT/GVA/2016/15

Tribunal

UNDT

Registry

Geneva

Date of Judgement

18 Nov 2016

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Notification

Benefits and entitlements

Daily Subsistence Allowance (DSA)

Applicable Law

Administrative Instructions

- ST/AI/2012/1

GA Resolutions

- A/RES/64/233
- A/RES/64/269

Other UN issuances (guidelines, policies etc.)

- Administrative Guidelines for Offices affected by an Ebola Virus Disease (EVD) Outbreak
- A/64/633 (Secretary General's Report on Global Field support strategy)

Secretary-General's bulletins

- ST/SGB/2014/1

Staff Rules

- Rule 11.2(a)
- Rule 14(b)(ii)
- Rule 3.7
- Rule 4.8(b)
- Rule 7
- Rule 7.10

Related Judgments and Orders

UNDT/2016/004
2016-UNAT-672
2012-UNAT-273
2014-UNAT-473
2015-UNAT-566
2015-UNAT-588
2016-UNAT-644