

UNDT/2017/046, Newland

UNAT Held or UNDT Pronouncements

The Applicant submitted that his initial “informal” enquiries into a possible review of his retirement age only began in July 2016, and that his first formal query of the date was not until 13 August 2016. It was difficult to imagine why the Applicant never thought to query the applicable position, or seek to have the mandatory retirement age in respect of himself reviewed, until five months before he was actually due to retire. Indeed, the Applicant had not sought to even challenge any of the Respondent’s submissions on receivability. While the Tribunal appreciated that a self-represented litigant could be handicapped in the handling of his case, particularly on technical aspects of the law, jurisdiction was an aspect of deliberation that the Tribunal had to be cognizant of and scrupulous about.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent’s decision to retire him at the age of 60 instead of 62.

Legal Principle(s)

In situations involving multiple representations from the Administration concerning generally the same subject matter, a determination as to when a final decision was made turns on the facts of the case. The jurisprudence has primarily examined whether the communication had the required form and whether it was issued by the appropriate authority and within the ambit of the powers that that authority has. While the Tribunal appreciates that a self-represented litigant may be handicapped in the handling of his case, particularly on technical aspects of the law, jurisdiction is an aspect of deliberation that a Tribunal must always be cognizant of and scrupulous about. The jurisprudence is consistent in that repeated restatements of the original decision will not alter the deadline for a challenge against the impugned decision and draws a distinction between “simple reiteration - or even explanation - of an earlier decision from the making of an entirely new administrative decision.”

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Newland

Entity

UNSOS

Case Number(s)

UNDT/NBI/2016/087

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

27 Jun 2017

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Staff Rules

- Rule 11.2
- Rule 11.4

UNDT RoP

- Article 35
- Article 7

UNDT Statute

UNAT Statute

- Article 2.1(a)