

UNDT/2017/049, Lewis

UNAT Held or UNDT Pronouncements

The application was receivable because there was a reviewable administrative decision stemming from the SRO's negative comments and rating in the Applicant's performance appraisal because the Applicant was granted only a six-month contract instead of the one year appointment that he was granted when he initially entered on duty with UNSMIL. Thus, the SRO's comments had direct legal consequences for the Applicant in that he ended up with a shorter term of appointment. Although the Respondent had made assurances to the Applicant that the 2015-2016 e- PAS would be rolled back and re-created, his e-PAS had remained unchanged. The Tribunal held that until such time as the e-PAS was rolled back and re-created, the cause of action remained a live issue and thus, the application was not moot

Decision Contested or Judgment/Order Appealed

The Applicant contested the negative "rating and comments" of his Second Reporting Officer in his 2015-2016 e-PAS.

Legal Principle(s)

1) To determine an administrative decision, one has to look at the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision. Administrative decisions that stem from any final performance appraisal and that affect the conditions of service of a staff member may be resolved by way of informal or formal justice mechanisms. 2) A matter can only be considered to be moot where a dispute no longer exists.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Lewis

Entity

UNSMIL

Case Number(s)

UNDT/NBI/2017/002

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

28 Jun 2017

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Performance management

Applicable Law

Administrative Instructions

- ST/AI/2010/5

UNDT Statute

UNAT Statute

- Article 2.1(a)