

UNDT/2019/029, Allen

UNAT Held or UNDT Pronouncements

The Respondent complied with the audi alterem partem principle, which ensures that a party adversely affected by an administrative decision has the right to know, the opportunity to comment on, and the ability to answer the case against him or her. The Applicant was well aware of the complaints that were lodged against him, was confronted with each claim and responded thereto, was repeatedly warned about his unprofessional behaviour and performance issues yet failed to heed to these warnings. The decision not to renew the Applicant's contract due to poor performance was lawful. The Applicant's behaviour qualified as an exceptional case, pursuant to staff rule 5.3(f), and it was in the interest of UNOPS to have the Applicant on special leave with full pay. The application was rejected.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decisions to grant him special leave with pay and not to renew his appointment.

Legal Principle(s)

It is a breach of the audi alteram partem principle for a decision maker to base a decision on information that has not been disclosed to the party adversely affected. The audi alteram partem principle ensures that a party adversely affected by an administrative decision has the right to know, the opportunity to comment on, and the ability to answer the case against him or her.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Allen

Entity

UNOPS

Case Number(s)

UNDT/NBI/2016/89

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

22 Feb 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Reasons

Disciplinary matters / misconduct

Disciplinary measure or sanction

Harassment (non-sexual)

Non-renewal

Reason(s)

Applicable Law

Administrative Instructions

- ST/AI/2010/5
- ST/AI/292

Secretary-General's bulletins

- ST/SGB/2009/1

Staff Rules

- Rule 10.3

Related Judgments and Orders

2019-UNAT-951