

UNDT/2019/050, Wesslund

UNAT Held or UNDT Pronouncements

Art. 8.1(i) of the UNDT Statute provides that in cases where a management evaluation of the contested decision is required, as in this case, an application shall be receivable if it is filed within the statutory time-limits. A staff member who has received an adverse decision about a claim cannot purport to unilaterally withdraw it and resubmit it with allegedly new evidence to attempt to have a new decision. In this case, there is not even new evidence. There would never be finality or certainty in respect of any decision if this were to be permitted. Such conduct, aimed at resetting the time limits, would also be inappropriate. Having considered the sequence of events and documents on record, the Tribunal concluded that the Applicant failed to timely file a request for management evaluation. Consequently, it found the application not receivable. Both parties asked for costs in this matter. The Tribunal considered Art. 10.6 of its Statute and found that 1) the Applicant had no basis to ask for costs and 2) while Counsel for the Applicant did not act in a courteous manner in written submissions, it was appropriate to warn him not to include abusive and irrelevant statements and assertions in submissions. No order for costs were made.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to pay her registration and parents' association fees, as part of a claim for an advance of education grant for the school year 2018-2019.

Legal Principle(s)

Art. 2.6 of the Statute of the Dispute Tribunal provides that in the event of a dispute as to whether the Tribunal has competence under said statute, the Tribunal shall decide on the matter. In Christensen 2013-UNAT-335, the Appeals Tribunal

confirmed this principle when holding that “the [Dispute Tribunal] is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute” when determining the receivability of an application. The reiteration of an original administrative decision, if repeatedly questioned by a staff member, does not reset the clock with respect to statutory time limits rather, the time starts to run from the date the original decision was made (Sethia 2010-UNAT-079 OdioBenito 2012-UNAT-196). “[T]he date of an administrative decision is based on objective elements that both parties (Administration and staff member) can accurately determine” (Rosana 2012-UNAT-273).

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Wesslund

Entity

UNICEF

Case Number(s)

UNDT/GVA/2019/006

Tribunal

UNDT

Registry

Geneva

Date of Judgement

29 Mar 2019

Duty Judge

Judge Downing

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Education grant

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNDT Statute

- Article 10.6
- Article 2.6
- Article 8.1(i)

Related Judgments and Orders

2013-UNAT-335

2010-UNAT-079

2012-UNAT-196

2012-UNAT-273