

UNDT/2019/156, Kollie

UNAT Held or UNDT Pronouncements

The Applicant had not adduced any documentary evidence to show that the Secretary General considered and made an administrative decision in relation to his claim for gross negligence. The only evidence that he had produced was to the effect that he asked the ABCC to consider compensating him for gross negligence over and above the award for compensation for injuries sustained in the course of duty. The Applicant brought his claim for compensation for gross negligence under a procedure that had been adjudicated irregular for not being supported by any Staff Regulation, Staff Rule or administrative issuance at all as it produced no reviewable administrative decision. The Applicant failed to discharge the legal burden placed upon him to show the Tribunal that an administrative decision was made against him and that it had direct legal consequences on his contractual rights.

Decision Contested or Judgment/Order Appealed

The Applicant was contesting the decision of the Advisory Board on Compensation Claims (ABCC) not to award him any damages for his claims of negligence.

Legal Principle(s)

Appendix D is a workers' compensation system. A workers' compensation system is a no fault insurance or scheme whereby employers must cover occupational injury or illness. Employees do not have to prove employers negligence in order to obtain benefits. Accordingly, a claim of gross negligence against the Administration is a separate action which cannot be included in a claim made by a staff member under Appendix D.

Outcome

Dismissed as not receivable

Outcome Extra Text

The Tribunal held that the claim of gross negligence which was not the subject of an administrative decision and, thereafter, management evaluation, was not receivable before the Dispute Tribunal.

Full judgment

[Full judgment](#)

Applicants/Appellants

Kollie

Entity

UNMIL

Case Number(s)

UNDT/NBI/2018/031

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Oct 2019

Duty Judge

Judge Sikwese

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Management Evaluation

Applicable Law

Staff Rules

- Appendix D