

UNDT/2020/172, Temu

UNAT Held or UNDT Pronouncements

The UNDT cannot condone delay or adjust the time permitted for filing an application within the prescribed 90 calendar day limit. There must be a limit to such actions. The Applicant's given reasons for failing to meet the deadline were not exceptional. There was no long-term outage of her electrical supply or internet service to prevent her from seeing the email before the end of business in the New York time zone. The Applicant should have sought a waiver of the time limit or leave to file after the statutory timelines before the deadline for filing. The amendment to the UNDT statute was intended to address breaches of the deadline in cases of technical problems where the time of arrival of an email on either side may be unclear. These circumstances along with a very debilitating illness which prevents ordinary physical and mental activity would be exceptional. In those circumstances, the deadline would be considered no more than one day after the intended deadline. Although there was a claim of illness, the description of the illness did not address the need for more time to file the application and no technical difficulties were mentioned.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decision to separate her from service on grounds of misconduct.

Legal Principle(s)

An application must be filed within 90 calendar days of management's response to a challenge or within 90 calendar days of the expiry of the deadline. The UNDT cannot adjust or waive the 90-day time limit.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Temu

Entity

UNDP

Case Number(s)

UNDT/NBI/2019/100

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Sep 2020

Duty Judge

Judge Belle

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8.1