

# 2010-UNAT-009, James

## UNAT Held or UNDT Pronouncements

UNAT considered Mr James' appeal and the Secretary-General's cross-appeal. UNAT affirmed UNDT's finding that Mr James was not eligible for the P-3 position both because he did not take the required examination and because of the lack of required qualifications. UNAT accordingly dismissed Mr James' appeal that UNDT erred in not awarding him compensation for loss of opportunity. UNAT allowed the cross-appeal and set aside the order for compensation for distress. UNAT noted that the compensation was not requested, there was no evidence of damage or injuries, and Mr James acknowledged on appeal that he only claimed monetary loss as his real injury. UNAT noted that the applicable law governing compensation precludes such an award. UNAT dismissed Mr James' appeal and affirmed UNDT's finding that he was ineligible for the P-3 position. UNAT allowed the cross-appeal and set aside the order for compensation for distress.

## Decision Contested or Judgment/Order Appealed

Mr James contested his non-appointment to a P-3 position. UNDT found that he could not be recruited from his general service role to the professional level without undergoing the required examination. UNDT awarded a three-month salary as compensation for the distress caused by the Organisation.

## Legal Principle(s)

An individual may not be awarded compensation for the loss of an opportunity if they were not eligible for the said opportunity.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

James

## Entity

UNOPS

## Case Number(s)

2009-010

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

30 Mar 2010

## President Judge

Judge Boyko

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Compensation

Loss of chance

## Related Judgments and Orders

UNDT/2009/025