

2010-UNAT-037, Castelli

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Secretary-General. The Secretary-General contended that UNDT erred by failing to recognize that the second contract by which Mr. Castelli's appointment was extended beyond a year was invalid because it had not been submitted for review by a central review body. UNAT held that, unless it is fake or fraudulent, a staff member's appointment contract gives rise to entitlements upon the signing and acceptance by the staff member of their letter of appointment. UNAT held that this is true even where the administration improperly handled the recruitment process. UNAT held that, given the irregularity referred to by the Administration and the fact that Mr. Castelli's good faith was never called into question, the Administration could not have created an artificial break in service, in violation of the Staff Regulations and Mr. Castelli's rights, in order to deny him the entitlement of a relocation grant. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

UNDT judgment: Mr. Castelli contested the decision to deny him the payment of entitlements applicable to staff who served continuously for a year or longer, including the relocation grant. UNDT found for Mr. Castelli and ordered the Administration to pay him the balance of the relocation grant applicable at the time of the claim, with interest.

Legal Principle(s)

Where the Administration commits an irregularity in the recruitment procedure, it falls to it to take such measures as are appropriate to correct the staff member's situation. It is only where such correction is manifestly impossible to effect owing to the nature or gravity of the irregularity that the Administration may terminate a staff

member's appointment. However, if the staff member has acted in good faith, they are entitled to compensation for the damage suffered as a result.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Castelli

Entity

UNMIN

Case Number(s)

2009-017

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Jul 2010

President Judge

Judge Courtial

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Continuing appointment

TEST -Rename- Benefits and entitlements-45

Relocation grant

Applicable Law

Administrative Instructions

- ST/AI/2006/5/Section 11

Former Staff Rules

- Rule 104.14(h)(i)
- Rule 107.21(h)

Related Judgments and Orders

UNDT/2009/075