

2010-UNAT-040, Aqel

UNAT Held or UNDT Pronouncements

UNAT preliminarily held that the appeal should be regarded as timely because the initial submission in Arabic was received within the prescribed time limit. UNAT noted that the fact-finding committee acted in an objective and responsible manner in conducting its investigation and assessing the charges. UNAT noted that there was clear and convincing evidence supporting a finding of misconduct, which was not successfully rebutted by the Appellant, which alone was a sufficient basis for the impugned decision. Given the established misconduct and the seriousness of the incident, UNAT held that it could not review the level of sanction imposed; such a decision, which falls within the remit of the Commissioner-General, could only be reviewed by UNAT in cases of obvious absurdity or flagrant arbitrariness, which was not established here. UNAT dismissed the appeal and affirmed the Commissioner-General's decision.

Decision Contested or Judgment/Order Appealed

UNRWA decision: The Applicant contested the decision to terminate his appointment on the grounds of misconduct for sexually molesting a young girl. The UNRWA JAB recommended that the termination decision be reviewed. The Commissioner-General rejected the recommendation and dismissed the appeal.

Legal Principle(s)

The establishment of misconduct alone can be a sufficient basis for a staff member's termination. Depending on the establishment of misconduct and seriousness of incidents, certain cases can only be reviewed by UNAT in cases of obvious absurdity or flagrant arbitrariness.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered

Full judgment

[Full judgment](#)

Applicants/Appellants

Aqel

Entity

UNRWA

Case Number(s)

2010-040

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Jul 2010

President Judge

Judge Simón

Language of Judgment

Arabic

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Dismissal/separation

Facts (establishment of) / evidence

Evidence

Evidence of harm

Investigation

Fact-finding investigation

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction