

2010-UNAT-087, Liyanarachchige

UNAT Held or UNDT Pronouncements

UNAT held that UNDT had erred in law by upholding the decision to summarily dismiss the staff member, which was taken in violation of the requirements of adversarial proceedings and due process. UNAT held that, while the use of statements gathered in the course of an investigation from witnesses who remain anonymous throughout the proceedings, including before UNAT, cannot be excluded as a matter of principle from disciplinary matters, a disciplinary measure may not be founded solely on anonymous statements. UNAT ordered rescission of the contested decision to summarily dismiss the staff member; alternatively, the Secretary-General was ordered to pay 12 months' net base salary as compensation in lieu of rescission.

Decision Contested or Judgment/Order Appealed

The staff member contested the decision to summarily dismiss him for serious misconduct. UNDT rejected his application.

Legal Principle(s)

A disciplinary measure may not be founded solely on anonymous statements.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Liyanarachchige

Entity

UNOCI

Case Number(s)

2010-086

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2010

President Judge

Judge Courtial

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Due process

Evidence

Anonymous statements

Investigation

Due process

Applicable Law

Former Staff Rules

- Rule 101.2(a)
- Rule 110.2

Secretary-General's bulletins

- ST/SGB/2002/13
- ST/SGB/2003/13

UNAT Statute

- Article 9.1

Related Judgments and Orders

UNDT/2010/041