

# 2011-UNAT-151, Kaddoura

## UNAT Held or UNDT Pronouncements

As a preliminary issue, UNAT held that UNDT did not err in declining to hear the proffered evidence from witnesses for the Appellant, as the testimonies related to facts that were not specifically in dispute and could not have refuted the uncontested fact that the decision had been confirmed. UNAT held that the Appellant failed to demonstrate that UNDT erred in concluding that the confirmation decision was lawful and in awarding her compensation only in the amount of the Special Post Allowance she would have received. UNAT held that UNDT did not err by failing to order the Appellant's reinstatement or compensation in lieu thereof. UNAT held that the original illegal decision did not result in the illegality of the later confirmatory act. UNAT held that UNDT did not err in not ordering reinstatement as specific performance or higher compensation. UNAT held that the Appellant failed to demonstrate any errors warranting the reversal of the impugned judgment. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to transfer her. UNDT found that the original decision was illegal, as the new Executive Secretary had not delegated power to his Deputy to take such decisions and because it was inadequately justified. However, UNDT found that the decision to confirm the original decision was lawful. UNDT ordered rescission of the original decision, and compensation.

## Legal Principle(s)

UNDT is authorised to assess the relevance of evidence offered by a party to prove essential facts in the case and to refuse evidence related to non-relevant facts. Compensation in lieu of specific performance is only required when the administrative decision which is rescinded concerned an appointment, promotion or termination.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kaddoura

Entity

ESCWA

Case Number(s)

2010-150

Tribunal

UNAT

Registry

New York

Date of Judgement

8 Jul 2011

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Evidence

Admissibility

Reassignment or transfer

Restructuring

Applicable Law

UNDT RoP

- Article 18.1
- Article 18.5

UNDT Statute

- Article 10.5(a)

Related Judgments and Orders

UNDT/2010/050

2011-UNAT-110