

# 2011-UNAT-178, Hepworth

## UNAT Held or UNDT Pronouncements

UNAT held that the Appellant was not given an opportunity to call witnesses at trial and prior to that was not able to discuss with his supervisor the reason for his transfer. UNAT held that the appeal was receivable because UNDT had committed an error in procedure, such as to affect the decision of the case when it limited the evidence. UNAT held that due process required that a staff member must know the reasons for a decision so that he or she can act on it and the complainant was left in an unfair position in terms of attempts to resolve the dispute when deprived of the opportunity to consider the reasons for his lateral transfer. UNAT allowed the appeal and remanded the case to UNDT for a determination of the facts and the merits of the application.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew his fixed-term appointment. UNDT rejected his application.

## Legal Principle(s)

The burden of proving improper motivation lies with the staff member contesting the decision not to renew his or her contract. The burden of proving that the first instance judge erred on a question of fact resulting in a manifestly unreasonable decision lies with the appellant. Due process requires that a staff member must know the reasons for a decision so that he or she can act on it.

## Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Hepworth

Entity

UNEP

Case Number(s)

2010-183

Tribunal

UNAT

Registry

New York

Date of Judgement

21 Oct 2011

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Non-renewal

Arbitrary or improper motive

Burden of proof

Reassignment or transfer

Applicable Law  
UNAT Statute

- Article 2.1(d)

Related Judgments and Orders  
UNDT/2010/193  
2011-UNAT-185  
2010-UNAT-081