

2011-UNAT-184, Jennings

UNAT Held or UNDT Pronouncements

UNAT noted that there was no evidence to support the Appellant's allegations that the statements of her witnesses were used in their entirety by UNDT and, even assuming that the UNDT had been in breach of its rules of procedure by making those statements, UNAT held that it had not been established that the said breach gave rise to an error in procedure liable to influence the judgment. UNAT held that the Appellant's allegation, that the staff member who recruited her gave her assurances liable to create a well-founded expectation of contract renewal, was not justified. Noting that UNDT considered that the decision not to renew the contract was lawfully based on the evaluation of the Appellant's performance, UNAT held that the Appellant was unable to produce sufficient evidence to support her allegations that UNDT erred on questions of fact. On the Appellant's other claims on issues separate from the impugned decision, UNAT noted that they had not been submitted for management evaluation and therefore UNAT held that UNDT did not fail to exercise the jurisdiction vested in it by dismissing them as non-receivable. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew her contract. UNDT found that the decision was lawful; however, UNDT awarded compensation for the damage resulting from the rebuttal panel's unreasonable delay in completing the rebuttal process.

Legal Principle(s)

A fixed-term appointment does not carry any expectancy of renewal or conversion to any other type of appointment. The burden of proving that the grounds for non-renewal were unlawful lies with the staff member contesting the decision. The

burden of proving that the judge of the first instance erred on a question of fact, resulting in a manifestly unreasonable decision, lies with the Appellant. It is the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the UN; ignorance cannot be invoked as an excuse.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Jennings

Entity

DM

Case Number(s)

2011-191

Tribunal

UNAT

Registry

New York

Date of Judgement

21 Oct 2011

President Judge

Judge Courtial

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

No expectancy of renewal

Reason(s)

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

Administrative Instructions

- ST/AI/2002/3

Former Staff Rules

- Rule 104.12
- Rule 109.7

Related Judgments and Orders

UNDT/2010/213