

2012-UNAT-194, Kamunyi

UNAT Held or UNDT Pronouncements

UNAT considered Mr Kamunyi's appeal and the Secretary-General's cross-appeal. UNAT rejected Mr Kamunyi's appeal in its entirety and held that it is within the Administration's discretion to reassign a staff member to a different post at the same level and that such a reassignment is lawful if it is reasonable in the particular circumstances of each case and if it causes no economic prejudice to the staff member. UNAT held that UNDT rightfully rejected Mr Kamunyi's request for legal costs, noting that no legal costs were owed to a party when the opposing party had not abused the process. With respect to the Secretary-General's appeal, UNAT held that UNDT erred in finding that the reprimand imposed on Mr Kamunyi for insubordination by refusing to hand over his private firearm was unreasonable and unlawful. UNAT referenced Section 6. 28 of the Field Security Handbook and Section 2 of ST/AI/309/Rev. 2, which state that it is forbidden to carry private weapons within the offices of the United Nations and that security officers are authorized to seize property if they have a reason to believe that a person is carrying an unauthorized weapon. UNAT accordingly reduced the compensation awarded by UNDT to the amount of two years' net base salary. UNAT dismissed Mr Kamunyi's appeal in its entirety and allowed the Secretary-General's cross-appeal in part, affirming the reprimand of Mr Kamunyi while reducing the compensation owed to him.

Decision Contested or Judgment/Order Appealed

Mr Kamunyi contested the charge of misconduct against him, for refusing to hand over his private firearm, as well as his suspension and reassignment. UNDT ordered the rescission of the decision to suspend Mr Kamunyi and place him on SLWFP for one year and eight months and the rescission of the decision to reprimand him for insubordination. UNDT ordered the Secretary-General to pay Mr Kamunyi compensation under Article 10(5)(b) of the UNDT Statute in the amount of two years and six months of his current net base salary. UNDT did not award legal costs.

Legal Principle(s)

No legal costs are due to a party when the opposing party has not abused the process.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kamunyi

Entity

UNON

Case Number(s)

2011-197

Tribunal

UNAT

Registry

New York

Date of Judgement

16 Mar 2012

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Pecuniary (material) damages

Disciplinary matters / misconduct

Reassignment or transfer

Applicable Law

Administrative Instructions

- ST/AI/2006/3
- ST/AI/309/Rev.2

Other UN issuances (guidelines, policies etc.)

- Field Security Handbook

Staff Regulations

- Regulation 1.2(c)

Related Judgments and Orders

UNDT/2010/214

2011-UNAT-187