

2012-UNAT-269, Hamad

UNAT Held or UNDT Pronouncements

UNAT held that UNRWA DT was correct in applying Former UNRWA Area Staff Rule 106. 1. 16 to calculate the interest applicable to the Appellant's pay-out and that UNRWA DT had not erred in this regard. UNAT held that the contention that the Administrative Rules of the United Nations Joint Staff Pension Fund apply to the Appellant's situation had no merit and had been raised for the first time on appeal. UNAT held that the Appellant had failed to demonstrate that UNRWA DT had erred in finding that the Appellant's terms and conditions of employment are governed solely and exclusively by the Agency's Area Staff Regulations and Rules and other relevant issuances as amended by the Agency. UNAT concurred with UNRWA DT that the manner in which the Provident Fund Secretariat had calculated the Provident Fund balance of separating participants did not constitute an administrative decision alleging the non-observance of the Appellant's terms of appointment and was, therefore, not within its jurisdiction. UNAT held that there was no appealable administrative decision. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to apply the November 2008 interest rate to the balance of her Provident Fund account and requested compensation for the difference between the December and November 2008 interest rates. UNRWA DT dismissed the application on the ground that there was no appealable administrative decision. UNRWA DT found that the manner in which the Provident Fund Secretariat calculated the balance of separating participants such as the Applicant's did not constitute an administrative decision as defined by UNRWA Area Staff Regulation 11. 1 and did not fall within the scope of its jurisdiction as an administrative decision alleging the non-observance of the Applicant's terms of appointment. UNRWA DT determined that the interest rate of 18. 49% was correctly applied. The Applicant appealed.

Legal Principle(s)

The manner in which the Provident Fund Secretariat calculates the account balance, essentially a pension settlement amount, for separating participants does not constitute an administrative decision and, therefore, does not fall within the jurisdiction of UNRWA DT and UNAT.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Hamad

Entity

UNRWA

Case Number(s)

2012-295

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Nov 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

TEST -Rename- Benefits and entitlements-45

Jurisdiction / receivability (UNAT)

Appeal

Subject matter (ratione materiae)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNRWA Area Staff Circulars

UNRWA Area Staff Rules

- Former Rule 106.1(16)