

# 2013-UNAT-369, Darwish

## UNAT Held or UNDT Pronouncements

UNAT affirmed the UNRWA DT decision that the application was not receivable as consistent with UNRWA Area Staff Rule 111. 2 and Article 8 of the UNRWA DT Statute. On alleged errors in procedure, UNAT noted that the Appellant had no opportunity to challenge the untimeliness of the Commissioner-General's reply before UNRWA DT, but that, since the Appellant had not demonstrated how the untimely reply affected UNRWA DT's decision on receivability, UNAT found no merit on this ground. UNAT held that there was no error in UNRWA DT's reasoning on the issue of EVR. UNAT held that, absent an appealable administrative decision, UNRWA DT lacked jurisdiction to adjudicate that element of the application. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

## Decision Contested or Judgment/Order Appealed

UNRWA DT judgment: The Applicant contested the decision to suspend him pending an investigation into allegations that he was involved in acts of corruption and abuse of authority, and that he invited and accepted bribes from beneficiaries. He also claimed that he had been coerced into opting for EVR and alleged due process violations. UNRWA DT dismissed the application as not receivable.

## Legal Principle(s)

UNDT does not have jurisdiction to consider applications that were not subject to administrative review where such review is a mandatory requirement under the Staff Rules. When a staff member claims that he or she has been coerced into resigning, the burden is on the staff member to prove the wrongful acts of the Administration. A staff member's unilateral decision to request Early Voluntary Retirement (EVR) and the Agency's acceptance of such a request does not give rise to a discretionary administrative decision for the purpose of appeal.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Darwish

## Entity

UNRWA

## Case Number(s)

2012-420

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

17 Oct 2013

## President Judge

Judge Adinyira

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNAT)

Subject matter (ratione materiae)

## Applicable Law

UNRWA Area Staff Rules

- Rule 111.2

UNRWA DT Statute

- Article 8

## Related Judgments and Orders

2010-UNAT-039

2013-UNAT-304