

2014-UNAT-398, Kamara

UNAT Held or UNDT Pronouncements

UNAT held that UNDT had not erred in law or fact rendering its judgment. UNAT held that the Appellant had failed to persuade the Court that UNDT's conclusion of fact had rendered the decision unreasonable as required by Article 2 of the UNAT Statute. UNAT held that the evidence clearly supported the finding of gross negligence and loss of property, as well as the existence of the misconduct. UNAT held that there was no due process violation on the part of the Administration for having charged the Appellant with three accounts of misconduct. UNAT held that the misconduct had been established and the disciplinary measure of separation from service without termination indemnities adopted in this case was proportionate to it. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to separate him from service on the grounds of gross negligence. UNDT rejected the application and found that the decision to apply the sanction of separation from service without termination indemnities, but with compensation in lieu of notice, was fair and proportionate. UNDT found that the Applicant had failed to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk by allowing Mr. Weah, of the Seatrans Shipping Stevedoring Company, possession of the Bill of Lading, which contained all the container numbers and information, and the Bill of Charges and Container Receipt, which allowed Mr. Weah to locate containers on his own and to go with the forklift operator to collect the WFP containers, having Mr. Weah misappropriated the Organisation's property. UNDT found that these serious failures had costed the Organisation a loss of property valued at USD 190,000. The Applicant filed a request for waiver of the time limit to appeal and was granted seven days.

Legal Principle(s)

In Haniya (judgment 2010-UNAT-029), UNAT held that, when reviewing a disciplinary sanction imposed by the Administration, the role of the Tribunal is to examine whether the facts on which the sanction is based have been established, whether the established facts qualify as misconduct, and whether the sanction is proportionate to the offence.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kamara

Entity

WFP

Case Number(s)

2013-446

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Apr 2014

President Judge
Judge Simón
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Disciplinary matters / misconduct
Disciplinary measure or sanction
Dismissal/separation
Separation from service
Applicable Law
UNAT Statute

- Article 2(e)

Related Judgments and Orders
UNDT/2012/169
2010-UNAT-029
2010-UNAT-028