

2014-UNAT-399, Eggesfield

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT did not err in law or in fact in determining that the contested decision was unlawful. UNAT held that there was no merit to the Secretary-General's claim that the staff member could not challenge the decision not to reinstate him because he had entered a binding contract with the Administration when he signed the offer of appointment or the letter of appointment, both of which were silent about reinstatement. UNAT held that UNDT had correctly concluded that the reinstatement was not foreclosed by the absence of a reference to it in the staff member's letter of appointment. UNAT held, however, that a remand was not available because the staff member had retired from service with the Organisation. Therefore, UNAT awarded the staff member compensation for moral damages. UNAT dismissed the appeal and affirmed the UNDT judgment in part as follows: UNAT affirmed the rescission of the administrative decision, and UNAT vacated the reinstatement of the staff member and the award to him of corresponding entitlements and benefits. In addition, UNAT awarded USD 5,000 as moral damages with interest in the case of late payment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to reinstate him. In judgment No. UNDT/2012/208, UNDT determined that the administrative decision denying the Applicant's request for reinstatement was based on an erroneous interpretation of Staff Rule 4.18 and should be rescinded. UNDT ordered that the Applicant be reinstated.

Legal Principle(s)

Staff Rules are part of a staff member's employment contract and, as such, a staff member may challenge the unlawful application of a staff rule. A staff member

cannot be barred from judicial review by accepting an offer of appointment or an appointment letter that he or she alleges does not comply with the Staff Regulations or Rules. UNDT has a duty to consider whether the Secretary-General exercised his discretion in a proper manner to determine if the decision is legal, rational, procedurally correct, and proportionate and, in so doing, UNDT can consider whether relevant matters have been ignored and irrelevant matters considered and examine whether the decision is absurd or perverse”.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Egglesfield

Entity

UNOCI

Case Number(s)

2013-447

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Apr 2014

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

TEST -Rename- Benefits and entitlements-45

Compensation

Non-pecuniary (moral) damages

Applicable Law

Secretary-General's bulletins

- ST/SGB/2011/1

Staff Rules

- Rule 4.17
- Rule 4.18

Related Judgments and Orders

UNDT/2012/208

2013-UNAT-303

2013-UNAT-372

2012-UNAT-276

2010-UNAT-084

2013-UNAT-357