

2014-UNAT-402, Egglesfield

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT's analysis of the receivability of the application was replete with factual and legal errors. UNAT held that UNDT had made an error of fact and law when it tolled the limitations period for seeking management evaluation for the period 23 June to 23 August 2011. UNAT held that tolling the limitations period for the two or three days of the Ombudsman's assistance, which took place after the limitations period had expired, did not assist the staff member. UNAT held that there was no legal authority for UNDT to commence the running of the sixty-day limitation period from the end of the Ombudsman's settlement negotiations, rather than from "the date on which the staff member received notification of the administrative decision to be contested". UNAT held that UNDT's approach exceeded its jurisdiction and competence in that it ignored the statutory prohibition against suspending or waiving the deadline for management evaluation set forth in Article 8.3 of the UNDT Statute. UNAT held that the staff member's request for management evaluation was untimely, and his application was not receivable *ratione materiae*. UNAT granted the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant contested the decision to recover the lump sum paid for his home leave. UNDT found that the Applicant had filed his request for management evaluation in a timely manner, that the application was receivable and that the administrative decision to recover the payment for home leave was unlawful and should be rescinded. In the event the payment for home leave had already been recovered from the Applicant, UNDT ordered that it should be returned to him with proper adjustments made to his other entitlements and benefits.

Legal Principle(s)

There is no legal authority for UNDT to commence the running of the sixty-day limitation period from the end of the Ombudsman's settlement negotiations, rather than from "the date on which the staff member received notification of the administrative decision to be contested".

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Egglesfield

Entity

UNOCI

Case Number(s)

2013-452

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Apr 2014

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (ratione materiae)

Applicable Law

Staff Rules

- Rule 11.2(c)

UNAT RoP

- Article 18.1

UNDT Statute

- Article 2.1
- Article 8.3

Related Judgments and Orders

UNDT/2013/006

2010-UNAT-067

2010-UNAT-036

2010-UNAT-043

2010-UNAT-074

2011-UNAT-108

2013-UNAT-306