

2014-UNAT-423, Bastet

UNAT Held or UNDT Pronouncements

UNAT considered three appeals by Mr Bastet against Order No. 96 (NY/2013), Order No. 58 (GVA/2013)), and Order No. 160 (GVA/2013). Regarding UNDT Order No. 96 (NY/2013), UNAT held that the decision to transfer the Appellant's case to Geneva fell squarely within the jurisdiction and competence of UNDT. Regarding the second complaint, namely that UNDT exceeded its competence and/or erred in law, fact, or procedure in restricting disclosure of documents and witnesses, UNAT held that to order, or not to order certain documents also fell within the discretion of UNDT. UNAT held that the Appellant had failed to establish an excess of jurisdiction or competence on part of UNDT. Regarding UNDT Order No. 58 (GVA/2013), in which UNDT rejected the Appellant's motion for disclosure whereby he asked UNDT to request the Secretary-General to provide additional documents and that the proceedings be stayed, and the motion that travel costs be granted to him and his counsel, UNAT held that the exercise carried out by UNDT was no more than case management exercise and, therefore, within its competence and jurisdiction. Regarding UNDT Order No. 160 (GVA/2013), in which UNDT ordered the Secretary-General to provide it with certain documentation referable to the disciplinary measures, UNAT held that the Appellant had failed to demonstrate that UNDT had exceeded its competence or jurisdiction in applying Administrative Instruction ST/AI/371. UNAT dismissed the appeals against UNDT Order No. 96 (NY/2013), UNDT Order No. 58 (GVA/2013), and UNDT Order No. 160 (GVA/2013) as not receivable.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant contested the decision to dismiss him from service for claiming and receiving a rental subsidy from the Organisation, to which he was allegedly not entitled. UNDT issued a judgment on receivability and found that the application was not time-barred and, therefore, receivable. UNDT issued a second judgment finding that the decision to dismiss the Applicant was tainted by procedural errors. UNDT, however, found that the Applicant had committed serious

misconduct and that, had the procedural irregularities not occurred, the misconduct would have merited dismissal. UNDT concluded that the loss of the Applicant's job was attributable not to the purely technical illegality committed by the Administration but solely to the Applicant's misconduct. UNDT ordered that the decision to dismiss the Applicant be rescinded on the grounds of procedural defect. UNDT ordered, should the Secretary-General elect not to execute the rescission, that no compensation should be paid to the Applicant and the evidence relating to the disciplinary proceedings should remain in the personal files. UNDT dismissed all other pleas.

Legal Principle(s)

In an appeal from an interlocutory decision, the staff member must demonstrate that UNDT exceeded its competence and/or erred in law, fact or procedure.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Bastet

Entity

DESA

Case Number(s)

2013-477

2013-493

2013-535

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Apr 2014

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Receivability

Jurisdiction / receivability (UNAT)

Interlocutory appeal

Procedure (first instance and UNAT)

Case management

Applicable Law

UNAT Statute

- Article 2.1

Related Judgments and Orders

2010-UNAT-062

2012-UNAT-252

2013-UNAT-300

2012-UNAT-234

2011-UNAT-101

2010-UNAT-005

2011-UNAT-160

UNDT/2013/172