

2014-UNAT-429, Leclercq

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT noted that the appeal only addressed the award of material damages. UNAT held that the staff member was entitled to one year's gross base salary apart from sick leave for the period of his certified illness. UNAT held that the award of twelve months' gross base salary for material damages as a result of the non-renewal was not disproportionate, taking into account his service from 2003 to 2011. UNAT held that UNDT had thoroughly examined the governing principles in awarding damages and followed the jurisprudence of UNAT. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

UNDT Judgment: The Applicant contested the decision not to renew his contract. UNDT found that the impugned decision was unlawful and that the Applicant could reasonably have expected his contract to have been renewed. UNDT awarded the Applicant material damages corresponding to one year's gross base salary and moral damages.

Legal Principle(s)

ST/AI/2005/3 ("Sick Leave") establishes that an appointment shall be extended for the period of certified illness up to the maximum entitlement of sick leave. The Administrative Instruction clearly states that sick leave is an entitlement. Credit for material damages for non-renewal and moral damages may accrue while the staff member is on sick leave because sick leave is not granted in compensation for the loss of earning or loss of expectations but because of incapacitation for service by reason of illness that continues beyond the date of expiration of the appointment.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Leclercq

Entity

ITC

Case Number(s)

2013-486

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Jun 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Sick leave
Compensation
Pecuniary (material) damages
Non-renewal
Arbitrary or improper motive
Applicable Law
Administrative Instructions

- ST/AI/2005/3

Related Judgments and Orders
UNDT/2013/055
2012-UNAT-219
2010-UNAT-092