

2015-UNAT-503, Hepworth

UNAT Held or UNDT Pronouncements

UNAT considered an appeal of judgment No. UNDT/2013/151 by the Secretary-General. As a preliminary matter, UNAT held that UNDT made an error of law in breaching the confidentiality of a letter and Note to File previously ordered to be kept confidential and UNAT granted the Secretary-General's motion to redact those paragraphs of the impugned judgment. UNAT held that UNDT made several errors of law: (1) by reviewing de novo the impugned decision; (2) by failing to recognise, respect and abide by UNAT jurisprudence; and (3) by finding that the surrounding circumstances created an implied promise that Mr Hepworth's appointment would be renewed. UNAT held that UNDT made an error of law and fact when it shifted the burden to UNEP to show that the decision not to renew Mr Hepworth's appointment was not motivated by improper reasons. UNAT held that UNDT made numerous errors of law and fact when it concluded that it was unlawful for UNEP not to renew Mr Hepworth's appointment, and the UNDT judgment should be reversed. UNAT ordered the redaction of paragraphs relating to confidential material, granted the Secretary-General's appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Hepworth contested the decision not to renew his contract. UNDT found against Mr Hepworth, and that his refusal to accept a reassignment constituted a valid reason for the non-renewal. On appeal, UNAT found that UNDT committed an error in procedure when Mr Hepworth was not given an opportunity to call witnesses at trial. The case was remanded to UNDT. In judgment UNDT/2013/151, UNDT concluded that the non-renewal decision was based on unlawful grounds.

Legal Principle(s)

The principle of stare decisis creates foreseeable and predictable results within the system of internal justice. A fixed-term appointment has no expectation of renewal or conversion to another type of appointment. The burden is on the staff member to show a legitimate expectancy of renewal or that the non-renewal of a fixed-term appointment was arbitrary or motivated by bias, prejudice or improper motive against the staff member.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Hepworth

Entity

UNEP

Case Number(s)

2014-573

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Non-renewal

Arbitrary or improper motive

No expectancy of renewal

Applicable Law

Former Staff Rules

- Rule 104.12(b)(ii)
- Rule 109.7(a)

GA Resolutions

- A/RES/53/221

Other UN issuances (guidelines, policies etc.)

- ICSC Standards of Conduct for the International Civil Service

Staff Regulations

- Regulation 1.2(c)

Related Judgments and Orders

UNDT/2013/151
2010-UNAT-084
2011-UNAT-151
2011-UNAT-187
2012-UNAT-194
2012-UNAT-236
2011-UNAT-184
2012-UNAT-201
2014-UNAT-435
2014-UNAT-411