

2015-UNAT-549, Ogorodnikov

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that the Secretary-General's appeal was filed on time and was receivable. UNAT held that, since the parties agreed to and identified the facts in their Joint Statement, it was not open to UNDT to conduct its own evaluation and then to substitute its view for that of the parties. UNAT held that the misconduct was of a grave and serious nature and in those circumstances, the sanction of separation was reasonable and not disproportionate and/or arbitrary. UNAT held that UNDT erred when it reversed the Secretary-General's decision to separate the Appellant from service with compensation in lieu of notice and with termination indemnity. UNAT granted the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the imposition of the disciplinary measure of separation from service, with compensation in lieu of notice, and with termination indemnity for misconduct, in the form of forging a stamp on his United Nations Laissez-Passez and providing false information in his annual leave report. UNDT found that the acts did not constitute misconduct, the sanction was disproportionate (ordering it to be replaced with a written censure and fine) and awarded compensation for loss of earnings.

Legal Principle(s)

An appealable decision is one that has a direct impact and produces direct legal consequences for a staff member affecting his or her terms of appointment or contract of employment.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Ogorodnikov

Entity

DSS

Case Number(s)

2014-633

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Jul 2015

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction

Applicable Law

Staff Rules

- Rule 10.3(b)

UN Charter

- Article 101

Related Judgments and Orders

UNDT/2014/059

2015-UNAT-510

2010-UNAT-084