2015-UNAT-599, Ten Have

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT erred in law and fact in ordering the refund of the recovery of the overpayments for two months. UNAT held that Ms Ten Have was aware of the overpayment in April 2013 and therefore, the general rule of Section 3. 1 of ST/AI//2009/1 was applicable and the recovery of the two months overpayments was not excessive since the limit of two years could not be applied due to the staff member's awareness of the overpayments as of April 2013, regardless of her previous ignorance or bona fide. UNAT also held that as no request for compensation for distress was made, UNDT lacked jurisdiction to award moral compensation sua sponte and that, even if the compensation had been requested, it would not have been awarded in the instant case as the notification and recovery process did not cause any injury to Ms Ten Have's rights as a staff member. UNAT upheld the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Ms Ten Have contested the decision to recover overpayments of a monthly residential security allowance (MRSA). UNDT upheld the decision, however, it ordered the refund of the recovery for the first two months of overpayment as opposed to the overpayment in full, and awarded moral damages.

Legal Principle(s)

UNDT lacks jurisdiction to award moral compensation sua sponte without a claim or request having been made.

Outcome
Appeal granted
Full judgment
Full judgment
Applicants/Appellants
Ten Have
Entity
UNEP
Case Number(s)
2015-702
Tribunal
UNAT
Registry
New York
Date of Judgement
30 Oct 2015
President Judge
Judge Simón
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
TEST -Rename- Benefits and entitlements-45
Compensation

Non-pecuniary (moral) damages
Applicable Law
Administrative Instructions

- ST/AI/2009/1

Related Judgments and Orders
UNDT/2015/007
2012-UNAT-205
2010-UNAT-042
2013-UNAT-288