

2016-UNAT-617, Saeed

UNAT Held or UNDT Pronouncements

UNAT rejected the request for an oral hearing finding that there was no need for further clarification. UNAT held that the Appellant did not base his appeal on any grounds for appeal in accordance with those established in the UNAT Statute. UNAT agreed with the UNRWA DT's conclusions about the untimely submission for review of the purported administrative decision approving a new workflow, the non-receivability of the challenge against the directive to the staff of the Finance Department not to take instructions from the Appellant, as well as the intermediate nature of the decision to refer the Appellant to a formal OTI process. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions: 1) to approve a new workflow for the Finance Division; 2) to direct staff in the Finance Department not to take instructions from him; and 3) to refer him to a formal Opportunity to Improve (OTI) process. UNRWA DT found that the Applicant's challenge to the Chief, Microfinance Operations' (CMO) decision to approve a new workflow for the Finance Division was not receivable in that Applicant had not requested decision review thereof within the 60 days' time limit. UNRWA DT found that Applicant's challenge to the CMO's directions to Finance Department staff not to take instructions from him was not receivable insofar as that instruction was an immediate consequence of the decision to approve a new workflow, of which the Applicant was aware, yet had failed to request timely review. UNRWA DT found that the Applicant's challenge to the OiC, HRD's decision to initiate a formal OTI process for him was not an "administrative decision" which could be contested before UNRWA DT, but rather only an intermediate decision giving a staff member the opportunity to improve his or her level of performance. UNRWA DT dismissed the entire application as not receivable.

Legal Principle(s)

The appeals procedure is of a corrective nature and, thus, is not an opportunity for a dissatisfied party to reargue his or her case. A party cannot merely repeat on appeal arguments that did not succeed before the lower court. The function of UNAT is to determine if UNRWA DT has made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2.1 of the UNAT Statute. The appellant has the burden of satisfying UNAT that the judgment he or she seeks to challenge is defective. It follows that the appellant must identify the alleged defects in the judgment and state the grounds relied upon in asserting that the judgment is defective.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Saeed

Entity

UNRWA

Case Number(s)

2015-717

Tribunal

UNAT

Registry
New York
Date of Judgement
24 Mar 2016
President Judge
Judge Simón
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Jurisdiction / receivability (UNDT or first instance)
Management Evaluation
Temporal (ratione temporis)
Applicable Law
UNAT Statute

- Article 2

UNRWA Area Staff Rules

- Rule 111.2

Related Judgments and Orders

2015-UNAT-594
2015-UNAT-579
2014-UNAT-472
2013-UNAT-376