

2016-UNAT-666, Han

UNAT Held or UNDT Pronouncements

UNAT rejected the Appellant's submission that UNDT's failure to determine his motion to order the Secretary-General to produce relevant documents amounted to an error in procedure such as to affect the decision in the case. Article 19 of the UNDT Rules of Procedure gives UNDT broad discretion in managing its cases and in determining whether or not it has sufficient evidence and information "for the fair and expeditious disposal of the case and to do justice to the parties. UNAT noted that the Appellant adduced no evidence to support his contention that the exercise of discretion by UNDT was arbitrary and/or improper. UNAT found that the decision to relocate the Appellant was lawful and a valid exercise of the Secretary-General's discretionary authority to reassign staff. UNAT also found that UNDT correctly concluded that the Appellant was not entitled to the payment of a hardship allowance for Baghdad for any period as he was not physically located in Baghdad. UNAT also agreed that the Appellant was not entitled to the payment of daily subsistence allowance while in Kuwait since, during that time, his duty station was Kuwait and not Baghdad. UNAT dismissed the appeal and affirmed UNDT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to retroactively change his duty station from Baghdad to Kuwait and to reject his request for management evaluation as not receivable. UNDT declared his application was receivable but held that he failed to substantiate his claim that the contested decision was unlawful. UNDT held that the Applicant was not entitled to hardship allowances and was also not entitled to claim a daily subsistence allowance.

Legal Principle(s)

The UNDT, in accordance with Article 19 of its Rules of Procedure, has broad discretion in managing its cases and in determining whether or not it has sufficient evidence and information for the fair and expeditious disposal of the case and to do justice to the parties. Staff members are subject to the authority of the Secretary-General and to assignment by him or her to any of the activities or offices of the United Nations. In exercising this authority, the Secretary-General shall seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Han

Entity

UNAMI

Case Number(s)

2015-877

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Daily Subsistence Allowance (DSA)

Reassignment or transfer

Discretion

Applicable Law

Staff Regulations

- Regulation 1.2(c)

UNDT RoP

- Article 19

Related Judgments and Orders

UNDT/2015/098

2015-UNAT-600

2013-UNAT-329

2010-UNAT-062