

# 2017-UNAT-737, Likukela

## UNAT Held or UNDT Pronouncements

UNAT refused the Appellant's application for an oral hearing, noting that the Appellant was not entitled to call evidence on appeal that she should have presented to UNDT. UNAT held that UNDT correctly regarded itself as not competent to make medical findings contradicting the medical evidence. UNAT held that UNDT made no error in its finding that the ABCC's recommendation had no connection with the attempted recovery of monies which was allegedly paid to the Appellant by the United Nations Federal Credit Union (UNFCU) by mistake. UNAT held that UNDT was quite correct in its opinion that the proper way for the Appellant to request reconsideration of the conclusions reached by the Medical Services Division was to make use of Article 17 of Appendix D to have the matter re-examined by a group of medical experts. UNAT held that it had no reason to disagree with the UNDT finding that the Appellant had not pointed to any procedural irregularity which would justify overturning the contested decision. UNAT noted that the Appellant's arguments on appeal were essentially that she disagreed with the conclusions of the medical practitioners and sought to persuade UNAT to accept her view, just as she did before the UNDT. UNAT held that it was not sufficient for the Appellant merely to submit her disagreement and repeat her previous arguments to UNDT. UNAT reaffirmed its position that the appeals procedure is of a corrective nature and not an opportunity for a dissatisfied party to reargue his or her case, he or she must demonstrate that the court below has committed an error of fact or law warranting intervention by UNAT. UNAT held that the Appellant failed to demonstrate that UNDT committed any error of fact or law in arriving at its decision. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision by the Secretary-General to uphold the recommendation of the Advisory Board on Compensation Claims (ABCC) rejecting her claim for compensation under Appendix D of the Staff Rules (Appendix D) for

alleged injuries incurred during the course of a medical examination. UNDT rejected the application.

## Legal Principle(s)

The appeals procedure is of a corrective nature and not an opportunity for a dissatisfied party to reargue his or her case. An appellant must demonstrate that the lower court committed an error of fact or law warranting intervention by UNAT.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Likukela

## Entity

UNMIT

## Case Number(s)

2016-980

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

31 Mar 2017

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Compensation for injury, illness or death attributable to service (Appendix D to Staff Rules)

## Applicable Law

Staff Rules

- Appendix D

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.2

## Related Judgments and Orders

UNDT/2016/180