

2017-UNAT-787, Auda

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the staff member and an appeal by the Secretary-General. UNAT upheld both UNDT's finding that the decision to close the investigation was improper as well as UNDT's refusal to order rescission of that decision on account of the subject of the investigation having separated from the Organisation. UNAT, however, vacated UNDT's moral damages award on the grounds that the staff member did not present any evidence, apart from his own unsworn testimony to support the claim. UNAT held that "generally speaking, the testimony of an applicant alone without corroboration by independent evidence (expert or otherwise) affirming that non-pecuniary harm has indeed occurred is not satisfactory proof to support an award of damages". As the staff member's testimony was the only evidence presented to support his allegation of harm to his reputation and general well-being, UNAT held that UNDT committed an error of law in stating that this alone was sufficient to sustain an award of compensation under Article 10. 5(b) of the UNDT Statute. UNAT dismissed the staff member's appeal, granted the Secretary-General's appeal in part, and vacated the award of damages ordered in judgment No. UNDT/2016/007.

Decision Contested or Judgment/Order Appealed

A staff member filed an application before UNDT contesting the Administration's decision to close an investigation into his complaint filed under ST/SGB/2008/5. UNDT concluded that the decision to close the complaint without further action was improper as the investigation was tainted by serious procedural breaches. UNDT awarded USD 5,000 as moral damages for the harm to the staff member's reputation and general well-being.

Legal Principle(s)

Testimonial evidence without corroboration by independent evidence (expert or otherwise) is not satisfactory proof to support an award of moral damages.

Outcome

Appeal dismissed on merits; Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Auda

Entity

UNRWA

Case Number(s)

2017-1069

2017-1071

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Evidence of harm

Non-pecuniary (moral) damages

Evidence

Corroboration/hearsay

Evidence of harm

Sole testimony of complainant

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2017/007