

# **2017-UNAT-791, Ho**

## **UNAT Held or UNDT Pronouncements**

UNAT held that the appeal was receivable as the Appellant had partially prevailed before UNDT and was entitled to file an appeal to pursue the modification, annulment, or vacation of the impugned judgment. Noting that the crux of the matter before it was the issue of the exchange rate used to calculate the repatriation grant, UNAT held that there was no fault in the UNDT finding that the correct rate was applied because the applicable rate was that which applied on the date of receipt of the proof of relocation. UNAT held that the Appellant did not demonstrate that the UNDT committed any error of fact or law. On the Appellant's claim for interest on her repatriation grant for the period of delay, UNAT noted that UNDT declined to award interest because the Appellant had already received a payment greater than she would have received if she had been paid in a timely fashion (a year before) with interest, and therefore the Appellant did not suffer any material damage. UNAT held that there was no reason to differ from the UNDT's conclusion on interest on the basis that findings of fact of UNDT can only be disturbed when there is an error of fact resulting in a manifestly unreasonable decision, which was not the case. On moral damages, UNAT held that UNDT did not commit any error of law in its assessment of the compensation award, which UNAT found to be fair and reasonable. UNAT held that the Appellant did not demonstrate any error of law or manifestly unreasonable factual finding on the part of UNDT. UNAT dismissed the appeal and affirmed the UNDT judgment.

## **Decision Contested or Judgment/Order Appealed**

The Applicant contested the delay in paying her a repatriation grant and requested material and moral damages. UNDT dismissed her request for material damages and awarded her USD 500 for moral damages in connection with the Administration's 12-month delay in payment.

## Legal Principle(s)

The purpose of compensation is to place an appellant in the same position he or she would have been in had the Organisation complied with its contractual obligations. Compensation may never give rise to undue enrichment.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Ho

## Entity

UNFCCC

## Case Number(s)

2017-1075

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Oct 2017

## President Judge

Judge Raikos

## Language of Judgment

Arabic

English

## Issuance Type

Judgment

## Categories/Subcategories

Benefits and entitlements

Relocation grant

Compensation

Pecuniary (material) damages

## Applicable Law

Staff Regulations

- Annex IV
- Regulation 9.4

Staff Rules

- Rule 3.19(a)

## Related Judgments and Orders

UNDT/2017/013