

# **2017-UNAT-794, Afeworki**

## UNAT Held or UNDT Pronouncements

Noting that it was clear that the intention was to revisit the earlier decisions by conducting a review of affected staff, to decide the matter afresh, and to issue new notifications, UNAT held that the June decision went beyond mere reiteration and constituted a fresh administrative decision impliedly substituting the previous decision. UNAT held that UNDT erred in its findings that the Application was not receivable. UNAT upheld the appeal, vacated the UNDT judgment, and remanded the case to UNDT for consideration on the merits.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew her fixed-term appointment as a result of a comparative review process and a retrenchment exercise. In May 2015, the staff member was sent a letter that unequivocally informed her of the decision not to renew her fixed-term contract. In June, the Applicant was sent another letter informing her that her fixed-term appointment would not be renewed. UNDT considered that the June notification affirmed and reiterated the previous decision from May. Accordingly, using the May date as the date from which the time for a challenge of that decision ran, UNDT dismissed the application on the grounds that it was not receivable (*ratione materiae*) as the Applicant had not submitted her request for management evaluation within the stipulated time limit.

## Legal Principle(s)

An administrative decision will have the effect of triggering the running of a time limit if it is intended to have a final effect in the form of direct legal consequence on the rights and obligations of the staff member.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Afeworki

## Entity

RSCE

## Case Number(s)

2017-1078

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Oct 2017

## President Judge

Judge Murphy

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Administrative decision

Definition

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Non-renewal

Separation from service

Expiration of appointment (see also, Non-renewal)

## Applicable Law

Staff Rules

- Rule 11.2(c)

UNDT Statute

- Article 8.1
- Article 8.3

## Related Judgments and Orders

UNDT/2017/011