

2017-UNAT-798, Dibs

UNAT Held or UNDT Pronouncements

On the decision to postpone the separation on medical grounds, UNAT noted that a staff member had a right to be compensated for a service-incurred injury. UNAT found that UNRWA DT erred in law in determining the decision to postpone the Appellant's separation on medical grounds until the end of the disciplinary process was lawful. Noting that the Appellant did not provide any evidence in support of his claim of psychological suffering (or harm), UNAT did not award moral compensation. On the issue of the SLWOP, given the nature and seriousness of the allegations against the Appellant, UNRWA DT was correct that the decision to suspend him without pay, pending the outcome of the investigation, was properly and lawfully effected and that this decision was reasonable and lawful. UNAT held that the appeal succeeded in part. UNAT vacated UNRWA DT's rejection of the complaints regarding the administrative decision to postpone the Appellant's separation on medical grounds until the end of the disciplinary process, rescinded the administrative decision, and remanded the case to UNRWA to consider whether the Appellant's injuries were attributable to the performance of his duties.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to postpone his separation on medical grounds until the end of a disciplinary process and the decision to place him on Special Leave Without Pay (SLWOP). UNRWA DT dismissed the application in its entirety. UNRWA DT found that both decisions were lawful.

Legal Principle(s)

The discretionary power of the Administration is not unfettered; the Commissioner-General has an obligation to act in good faith and comply with applicable laws.

Outcome

Appeal granted in part

Outcome Extra Text

No relief was ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Dibs

Entity

UNRWA

Case Number(s)

2017-1083

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Special leave (with or without pay)

Compensation

Non-pecuniary (moral) damages

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Health reasons

Applicable Law

UNRWA Area Staff Regulations

- Regulation 10.4

UNRWA Area Staff Rules

- Rule 105.2
- Rule 106.4

UNRWA Personnel Directives

- PD A/5/Rev.7/Part II