

2019-UNAT-906, Omwanda

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT exceeded its competence in reviewing Mr Omwanda's EOD date, as it was not subject to a timely request for management evaluation. UNAT held that Mr Omwanda knew or ought to have known from his Letter of Appointment the date from which his appointment was effective, that he had been re-employed, not reinstated, and that its terms applied regardless of any period of former service. UNAT held UNDT was statutorily barred from hearing Mr Omwanda's application. UNAT upheld the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Omwanda contested, inter alia, the Administration's decision not to pay him termination indemnity following an award of disability and the termination of his appointment on medical grounds. UNDT held that the three applications filed by Mr Omwanda succeeded in part. UNDT found that Mr Omwanda should have been deemed to have been in continuous service and, as such, his full period of service had to be taken into account in the computation of his termination indemnity. UNDT found that the Administration had used the incorrect date of entry on duty (EOD) date for the calculation of the termination indemnity due to Mr Omwanda. UNDT rescinded the Administration's calculation of the termination indemnity, directing the Administration to provide him with a new calculation and to make any necessary adjustments to his separation entitlements and benefits. UNDT awarded Mr Omwanda USD 5,000 non-pecuniary damages for the procedural error.

Legal Principle(s)

An application is not receivable by UNDT if it is filed more than three years after the applicant's receipt of the contested decision.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Omwanda

Entity

UNON

Case Number(s)

2018-1198

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Mar 2019

President Judge

Judge Lussick

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (ratione materiae)

Temporal (ratione temporis)

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Health reasons

Applicable Law

Former Staff Rules

- Rule 104.3

Related Judgments and Orders

UNDT/2018/078