

2021-UNAT-1157, Appellant

UNAT Held or UNDT Pronouncements

The evidence and submissions on record are insufficient to determine the material issue as to whether the Appellant's claim for compensation totaled less than, or in excess of, USD 25,000, in order to determine the authority of the Secretary of the ABCC to take the contested administrative decision. Hence the remand to UNDT to determine whether the Secretary of the ABCC had the valid power to take the contested decision.

Decision Contested or Judgment/Order Appealed

UNDT/2020/167, in which UNDT rejected the Appellant's application against the decision to deny his Appendix D claim.

Legal Principle(s)

A request for management evaluation of a breach of duty claim does not substitute his/her obligation to make the original claim of gross negligence separately to the Secretary-General for his consideration and decision. ST/AI/234/Rev.1 requires consultation of the ABCC before the Controller, or the Secretary of the ABCC, upon the delegated authority, takes a decision to grant compensation for death, injury or illness up to USD 25, 000. But in the present case, there was a wrongful failure by the Secretary of the ABCC to consult the ABCC. His decision was therefore ultra vires.

Outcome

Appeal granted in part; Case remanded

Outcome Extra Text

Appeal allowed in part; UNDT Judgment set aside, except for its findings on the receivability of the Appellant's claim of gross negligence or breach of duty of care; case remanded to UNDT for a hearing de novo before a different judge; Appellant's name be redacted from judgment and any public pronouncement of the decision.

Full judgment

[Full judgment](#)

Applicants/Appellants

Appellant

Entity

DPKO

Case Number(s)

2020-1487

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Oct 2021

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/234/Rev.1

Secretary-General's bulletins

- ST/SGB/2015/1

Staff Regulations

Related Judgments and Orders

2021-UNAT-1117

2018-UNAT-861

2015-UNAT-600