

2021-UNAT-1174, Hoyce Temu

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant did not demonstrate any errors in the UNDT's finding that her application was filed one day late and was out of time. UNAT held that it is the receipt of the management evaluation response which triggers the time limit for filing an application to the UNDT, and not the moment when the staff member or her legal representative could reasonably be assumed to have taken notice of the response. In concurrence with the UNDT Judgment, UNAT held that the Appellant had not presented any exceptional circumstances to justify waiving the time limits and that any such circumstances must normally exist when the time limit runs out. UNAT held that being ill at the time of receiving the management evaluation response is ordinarily insufficient to demonstrate exceptional circumstances. UNAT held that, contrary to the UNDT Judgment, there was no difference between the two applications filed by the Appellant because they raised identical legal issues, noting that the Appellant could not circumvent the provisions in the Staff Rules and the UNDT Statute by filing an application in which she requested to postpone the implementation of a disciplinary sanction to a later date. UNAT dismissed the appeal and affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

The Appellant contested the decision to separate her from service while she was on maternity leave, and to deny her request for maternity and sick leave. UNDT dismissed the application as not receivable *ratione temporis*.

Legal Principle(s)

Ignorance of time limits or a miscalculation of time limits cannot be accepted as exceptional circumstances to justify the waiving of time limits. Being ill at the time of receiving a management evaluation response is ordinarily insufficient to demonstrate exceptional circumstances to justify the waiving of time limits.

Outcome

Appeal granted

Outcome Extra Text

N/A

Full judgment

[Full judgment](#)

Applicants/Appellants

Hoyce Temu

Entity

UNDP

Case Number(s)

2020-1496

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Oct 2021

President Judge

Judge Knierim
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Disciplinary matters / misconduct
Dismissal/separation
Jurisdiction / receivability (UNDT or first instance)
Temporal (ratione temporis)
Separation from service
Termination of appointment (see also, Termination of appointment)
Termination (of appointment)
Disciplinary sanction
Applicable Law
Staff Rules

- Rule 10.2
- Rule 11.3

UNDT RoP

- Article 34

UNDT Statute

- Article 8.1
- Article 8.1(d)(i)(a)
- Article 8.3
- Article 8.5

Related Judgments and Orders

2020-UNAT-999
2017-UNAT-773
2013-UNAT-385
2012-UNAT-196
2016-UNAT-693
2015-UNAT-521
2014-UNAT-470
UNDT/2021/090
UNDT/2009/097