

# 2013-UNAT-306, Ming Wu

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Mr Wu and a cross-appeal by the Secretary-General. UNAT held that the cross-appeal was receivable, despite it being a default judgment and the Secretary-General not having been allowed to participate in the proceedings or to file a reply. UNAT held that the application was not receivable *ratione materiae* on the basis that he had not made a timely request for management evaluation. UNAT held that therefore UNDT had no jurisdiction to address the merits of the claims in the application and those claims were not properly before UNAT for consideration. UNAT held that UNDT's analysis of the applicable deadlines contained several legal errors and that there was no legal authority for UNDT to commence the running of the sixty-day limitation period from the end of the Ombudsman's settlement negotiations, rather than the date on which the staff member received notification of the administrative decision to be contested. UNAT held that for UNDT to commence the running of the sixty-day period in a manner inconsistent with Staff Rule 11. 2(c) violated the statutory prohibition in Article 8(3) against UNDT suspending or waiving the deadline for seeking management evaluation. UNAT held that UNDT exceeded its jurisdiction or competence. UNAT dismissed Mr Wu's appeal, affirmed the Secretary-General's cross-appeal, and vacated the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to grant him an unaccompanied shipment entitlement or a lump sum for non-removal allowance upon separation due to retirement. UNDT found for the Applicant, issuing a default judgment.

## Legal Principle(s)

When UNDT acts in excess of its jurisdiction and authority, the aggrieved party may bring an appeal, regardless of whether the ruling is called an order or a judgment.

UNDT has no jurisdiction to waive deadlines for management evaluation.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Ming Wu

## Entity

UNON

## Case Number(s)

2012-338

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

28 Mar 2013

## President Judge

Judge Chapman

Judge Faherty

Judge Lussick

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Manifest excess of jurisdiction

## Applicable Law

Staff Rules

- Rule 11.2(c)

UNAT Statute

- Article 2.1
- Article 2.1(a)

UNDT Statute

- Article 8.3

## Related Judgments and Orders

UNDT/2012/074

2010-UNAT-036

2010-UNAT-043

2010-UNAT-074

2011-UNAT-108

2010-UNAT-005

2010-UNAT-008

2010-UNAT-011