

UNDT/2022/019, TOSON

UNAT Held or UNDT Pronouncements

The Tribunal was satisfied that the verbal decision conveyed to the Applicant was “clear and unambiguous” enough to have met the test laid down by the Appeals Tribunal in Auda. The Applicant’s repeated emails to the Respondent to express his disagreement with the impugned decision is evidence of the clarity of the decision. Time began to run from the date the decision was conveyed to him unambiguously.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decision to designate the Deputy Regional Director as his supervisor for the 2021 performance appraisal

Legal Principle(s)

The date of a contested administrative decision is based on objective elements that both parties can accurately determine. The reiteration of an original administrative decision, even if repeatedly questioned by a staff member, does not reset the clock with respect to statutory timelines. Staff rule 11.2(c) does not explicitly require a written notification as a prerequisite to contest an administrative decision, if the verbal communication of the decision was not an informal or casual communication, if its content is not disputed, and if it was communicated in a clear and unambiguous way with sufficient gravitas, a verbal communication can be considered as a notification of a decision.

Outcome

Dismissed as not receivable

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

TOSON

Entity

UNFPA

Case Number(s)

UNDT/NBI/2021/074

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

28 Feb 2022

Duty Judge

Judge Buffa

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Performance management

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2 (c)