

# UNDT/2023/015, LL

## UNAT Held or UNDT Pronouncements

The Tribunal found that the refusal to pay the Applicant's taxes was lawful and that the Administration was not liable for the delay in processing of the claim.

The Applicant's own testimony undermined his claim of extenuating circumstances. His testimony conclusively established that the Applicant did not file claims for tax reimbursement in a timely manner because he mistakenly believed that he was not required to file and pay taxes to the United States Government upon expiry of his permanent residence. His error came to light in August 2019, when the IRS placed a *lien* on his bank account to recover the outstanding tax arrears.

Extenuating circumstances had not been proven and the refusal to pay the Applicant's taxes was not unlawful.

There was no basis to hold the Respondent financially liable for interest and penalties accrued through the delay. Leaving aside the issue that the Applicant did not in any way quantify the amount of interest and penalties for which he demanded compensation, the Tribunal recalled that the Respondent's obligations regarding processing the tax returns was only subsidiary to the staff members obligation towards the IRS.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the "refusal" of the United Nations Income Tax Unit ("ITU") to process and pay his United States of America ("USA") federal tax liability for 2013, 2015 and 2017 based on his failure to prove that he had taken medical leave to address mental health challenges that "affected his judgment regarding his personal life.

## Legal Principle(s)

Pursuant to the information circulars on payment of income taxes, the one-year deadline in staff rule 3.17(ii) may be waived if the United Nations accepts that there are extenuating circumstances, which the staff member must lay out in writing.

As noted by the Appeals Tribunal, judgments on fitness of staff members for duty, are principally left to medical professionals and are not to be determined on the basis of assessments or opinions of others, including the staff member, the managers concerned and, it may properly be added, the Tribunal.

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

LL

Entity

ITU

Case Number(s)

UNDT/NBI/2022/021

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

13 Mar 2023

Duty Judge

Judge Milart

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reimbursement of income tax

TEST -Rename- Benefits and entitlements-45

Applicable Law

Administrative Instructions

- ST/AI/1998/1

Former Staff Rules

Information Circulars

Staff Rules

Related Judgments and Orders

2019-UNAT-897