

UNDT/2023/016, Kryvoruchko

UNAT Held or UNDT Pronouncements

Pursuant to jurisprudence on the factors to consider in a communication purporting to constitute the date on which an administrative decision was made, the Tribunal found that the 8 December 2021 communication from the CHRO/RSCE constituted the impugned decision. It had sufficient *gravitas* having been conveyed by the CHRO/RSCE as opposed to the HR Partner, it raised relevant factors and it had an element of finality.

The Tribunal found that the Applicant met the timeline for filing a request for management evaluation in accordance with staff rule 11.2(c). The Respondent's motion on receivability was dismissed. The Tribunal held that the application was receivable.

The Tribunal held that the Applicant had failed to prove that he was entitled to continue to receive six months New York post adjustment after his arrival in Entebbe, Uganda. The application was dismissed.

Decision Contested or Judgment/OrderAppealed

The Applicant contested: (1) the recovery of USD9,365.85 for four months of New York post adjustment for the period 1 August 2021 to 5 November 2021; and (2) the denial of his request to be paid the New York post adjustment ("NY/PA") for six additional months from his arrival in Entebbe on 6 November 2021.

Legal Principle(s)

Staff rule 11.2(c) provides the timeline for filing a request for management evaluation and it states that a request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

To determine what a reviewable administrative decision, a reviewing Tribunal must also consider the language used in the communications and should not be unduly swayed by either or both parties' characterization of the communications.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kryvoruchko

Entity

RSCE

Case Number(s)

UNDT/NBI/2022/052

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

15 Mar 2023

Duty Judge

Judge Sikwese

Language of Judgment

French

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Applicable Law

Secretary-General's bulletins

- ST/SGB/2019/2

Staff Rules

- Rule 11.2 (c)

Related Judgments and Orders

2017-UNAT-746

2012-UNAT-275

2016-UNAT-672

2020-UNAT-1044

UNDT/2019/144

2019-UNAT-975