

UNDT/2023/064, Rodriguez Santorum

UNAT Held or UNDT Pronouncements

There is indeed uncertainty and possibly also disagreement regarding various material facts of the case. Accordingly, the case may not be adjudicated on the basis of a summary judgment.

The part of the present case concerning IOM is not receivable under the legal doctrine of lis pendens.

With regard to the HLIS decision, the Applicant refers to his request for management evaluation of 4 November 2022. As the application in the present case is filed after this date, this part of the application is therefore, from this perspective, now receivable under staff rule 11.2

Decision Contested or Judgment/Order Appealed

The Applicant contests the rejections of his requests for after-service health insurance (“ASHI”) by (a) IOM and (b) the Health and Life Insurance Section (“HLIS”) in the United Nations Secretariat.

Legal Principle(s)

The Appeals Tribunal in Fasanella 2017-UNAT-765 held that “the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review”. As such, “the Dispute Tribunal may consider the application as a whole, including the relief or remedies requested by the staff member, in determining the contested or impugned decisions to be reviewed”. See para. 20.

Under the legal doctrine of lis pendens, the same issue cannot be adjudicated in two different cases (see, for instance, the Appeals Tribunal in Haroun 2017-UNAT-720).

The Tribunal notes that under art. 9 of the Dispute Tribunal’s Rules of Procedure (summary judgement), “[a] party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law”.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

It is DECIDED that: the Respondent’s request for a summary judgment is rejected; the appeal against the decision of IOM is not receivable; the appeal against the decision of HLIS is receivable.

Full judgment

[Full judgment](#)

Applicants/Appellants

Rodriguez Santorum

Entity

IOM

Case Number(s)

UNDT/NY/2023/001

Tribunal

UNDT

Registry
New York
Date of Judgement
26 Jun 2023
Duty Judge
Judge Adda
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
ASHI (After-Service Health Insurance)
United Nations Joint Staff Pension Fund (UNJSPF)
Applicable Law
Staff Rules

- Rule 11.4

Related Judgments and Orders
2017-UNAT-765