

UNDT/2023/011, Applicant

UNAT Held or UNDT Pronouncements

The Tribunal recalled that staff rule 3.9(b) clearly requires that to be eligible for education grant, a staff member must "reside and serve" outside his or her home country. Based on the evidence on the record, the Tribunal established that the Applicant had telecommuted from his home country for the entire period of 2020-2021 academic year. On this score, the Applicant was not entitled to the education grant.

Regarding the Applicant's contention that he had relied on an erroneous information provided to him by the Organization, the Tribunal found that there was no reliance on incorrect information supplied by the administration in the Applicant's decision to remain in the United States on FWA. Rather, the Applicant accepted the risk of staying on FWA for the duration of the whole school year, without having basis to assume that only the boarding expenses would be recovered. Accordingly, the Tribunal dismissed the application.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to recover the entire education grant advance for three of his dependent children for the 2020-2021 academic year. The Applicant's case was that, when he was on flexible working arrangement ("FWA"), telecommuting from his home country (United States of America), he had received information from the Organization that only the boarding allowance would be prorated. Accordingly, he argued that the Administration had no right to recover the education grant advance since he had relied on an erroneous information provided to him by the Organization.

Legal Principle(s)

Staff rule 3.9.b.(i) provides that to be eligible to education grants, staff members must reside and serve at a duty station outside their home country:

b. Subject to conditions established by the Secretary-General, a staff member who holds a fixed term or a continuing appointment shall be entitled to an education grant in respect of each child, provided that:

(i) The staff member is regarded as an international recruit under staff rule 4.5 and resides and serves at a duty station which is outside his or her home country.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

OIOS

Case Number(s)

UNDT/NBI/2022/027

Tribunal

UNDT

Registry

Nairobi

Date of Judgement
27 Feb 2023
Duty Judge
Judge Milart
Language of Judgment
English
Appeal Status
Appealed
Issuance Type
Judgment
Categories/Subcategories
Reasons
Administrative decision
Applicable Law
Administrative Instructions

- ST/AI/2018/1/Rev.1

Information Circulars
Staff Rules

- Rule 3.9

Related Judgments and Orders
2019-UNAT-925
2014-UNAT-411
2013-UNAT-367
2011-UNAT-140
UNDT/2010/147