

2024-UNAT-1419, Nicole Wynn

UNAT Held or UNDT Pronouncements

The UNAT noted that the Dispute Tribunal had issued the impugned Order granting the request to extend the time limit for filing the application without the adversely-affected party being heard and without authority to do so. The UNAT found that the UNDT had not technically complied with its own Practice Direction in issuing the Order and may have strictly violated the principles of natural justice and due process by failing to give the Secretary-General adequate notice of the motion and an opportunity to reply.

The UNAT observed, however, that the UNDT had accepted the staff member's averment that she had neither the physical nor the mental capacity to litigate the matter during the 90-day statutory deadline. The UNAT found that it was difficult to see how the Secretary-General could have provided evidence or submissions to the contrary on this point, given that, on appeal, the Secretary-General had not submitted any such evidence. The UNAT considered that such Order should still have been made after the Secretary-General's submissions on the motion.

The UNAT held that the lack of procedural fairness and explicit finding of "exceptional circumstances" had not amounted to the UNDT clearly exceeding its jurisdiction and competence.

The UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

A staff member sought to contest two decisions related to her education grant entitlements for the 2021-2022 and 2022-2023 academic years. She filed a motion with the UNDT, seeking an extension of time to file the application to challenge the contested decisions.

In Order No. 072 (NBI/2023), the UNDT granted the staff member's motion for an extension of time to file the application.

The Secretary-General appealed the UNDT's Order.

Legal Principle(s)

Appeals against interlocutory orders or decisions of the Dispute Tribunal are not receivable as these orders are not "judgements", unless the appellant can show that the Dispute Tribunal has "clearly exceeded its jurisdiction or competence".

Even if the Dispute Tribunal makes an error of law, if the matter can be properly raised later in the appeal against the final judgment on the merits, the Appeals Tribunal need not allow the appeal against the interlocutory decision.

The provision that a party opposing a motion may file a response to the motion implies, necessarily, that the motion will be served on or otherwise brought to the attention of the other party so that this right of response can be acted upon.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Nicole Wynn

Entity

UN Secretariat

Case Number(s)

2023-1801

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Apr 2024

President Judge

Judge Sandhu

Judge Gao

Judge Forbang

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Manifest excess of jurisdiction

Receivability

Procedure (first instance and UNAT)

Case management

Applicable Law

UNAT Statute

- Article 2.1(a)

UNDT RoP

- Article 19.1

UNDT Statute

- Article 8.3

Related Judgments and Orders

2019-UNAT-975

2020-UNAT-1058

2023-UNAT-1332