

2024-UNAT-1460, Al Waleed Abdelrahman Abdrabou

UNAT Held or UNDT Pronouncements

The UNAT noted that the UNDT had appropriately relied on the clear and convincing evidence to conclude that the staff member had submitted a medical insurance claim to Cigna for medical services that had never been provided.

The UNAT held that the evidence established that it was highly probable that the staff member had made the misrepresentation to Cigna with the intent to deceive and that his actions had been potentially prejudicial to the UNDP which was subject to any loss from undue reimbursements.

The UNAT found that the staff member's certification to Cigna of the correctness of the information had been false and that the UNDT had not erred in concluding that even if the staff member had not himself cooperated in the forgery and it had been committed unbeknownst to him, he had assumed full responsibility for the improper use of the documents.

The UNAT was of the view that the UNDT had not erred in finding that the sanction had been proportionate to the offence.

The UNAT held that the staff member had not discharged his onus to show improper motive and that not interviewing any witnesses identified by him during the investigation had not been a violation of his due process rights, given that he had not given any relevant basis for the witnesses to be interviewed.

The UNAT dismissed the appeal and affirmed the UNDT's Judgment.

Decision Contested or Judgment/Order Appealed

A former staff member contested the disciplinary decision to separate him from service, with compensation in lieu of notice and without termination indemnities, for having engaged in entitlement fraud by submitting forged documents for reimbursement for medical services that were not received.

In Judgment No. UNDT/2023/037, the UNDT dismissed the application.

The staff member appealed.

Legal Principle(s)

When a statement is not made under oath or affirmation, there must be some other indicia of reliability or truthfulness for the statement to have probative value.

In order to establish that the UNDT erred, it is necessary to establish that the evidence, if dismissed, would have led to different findings of facts and changed the outcome of the case.

Any form of dishonest conduct compromises the necessary relationship of trust between the employer and employee and will generally warrant dismissal.

A discretionary administrative decision can be challenged only on the basis that the Administration had not acted fairly, justly or transparently with the staff member or was motivated by bias, prejudice or improper motive. The staff member has the burden of proving that such factors played a role in the administrative decision.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Al Waleed Abdelrahman Abdrabou

Entity

UNDP

Case Number(s)

2023-1831

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jul 2024

President Judge

Judge Forbang

Judge Sheha

Judge Savage

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Facts (establishment of) / evidence

Fraud, misrepresentation and false certification

Proportionality of sanction

Discretionary authority

Due process

Oral hearings

Disciplinary matters / misconduct

Investigation

Procedure (first instance and UNAT)

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

UNDT RoP

- Article 17.3

Related Judgments and Orders

UNDT/2023/037

2023-UNAT-1379

2024-UNAT-1431

2019-UNAT-972

2023-UNAT-1375

2011-UNAT-110

2014-UNAT-480

2013-UNAT-364

2011-UNAT-123

2020-UNAT-982

2017-UNAT-781

2015-UNAT-511

2018-UNAT-811

2010-UNAT-040

2018-UNAT-890

2018-UNAT-849

2023-UNAT-1401

2022-UNAT-1260

2015-UNAT-597