

2024-UNAT-1432, Fernando Salon

UNAT Held or UNDT Pronouncements

The Appeals Tribunal found that the UNDT correctly dismissed Mr. Salon's application as not receivable on grounds that he had failed to establish that an appealable administrative decision had been taken by the Organization and that in any event, he had failed to request management evaluation.

Decision Contested or Judgment/Order Appealed

Before the UNDT, Mr. Salon, a former staff member, made claims of sustained and serious mistreatment during his employment with OIOS.

By Judgment No. UNDT/2023/029, the UNDT dismissed the application as not receivable. The UNDT concluded that Mr. Salon had not established the making of an administrative decision by the Secretary-General; and in any event, Mr. Salon had not ever sought management evaluation of an administrative decision.

Mr. Salon filed an appeal.

Legal Principle(s)

The UNDT's power to issue a summary judgment is based statutorily on the absence of any dispute about the material facts of a case, i.e. a manifest absence of contested jurisdictional or foundational facts.

Management evaluation of an impugned administrative decision is a process of internal review by the United Nations although independent of the decision-maker and the department in which the complainant staff member was engaged. The MEU was established separately for this purpose and to ensure this degree of

independence from administrative decision-makers.

Submission of a request for management evaluation to the MEU is a mandatory first step in the appeal process. Without such a request and either a decision thereon or a failure to decide the request within the statutory period for doing so, a complaint cannot be taken to the UNDT. Those rules are well-established and well-publicised in the Organization's Staff Regulations and Rules which staff is reasonably expected, if not to know, then at least to check. It is a fundamental obligation of staff to be familiar with, or at least familiar with how to access, relevant rules and procedures.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Fernando Salon

Entity

OIOS

Case Number(s)

2023-1814

Tribunal

UNAT

Registry

New York

Date of Judgement

6 May 2024

President Judge

Judge Colgan
Judge Sandhu
Judge Gao

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Subject matter (ratione materiae)
Management Evaluation
Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNDT RoP

- Article 9

UNDT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2023/029