

2024-UNAT-1459, Curt Hampstead

UNAT Held or UNDT Pronouncements

The Appeals Tribunal found that Mr. Hampstead had not established that the UNDT made any errors under Article 2(1) of the Appeals Tribunal Statute.

The UNDT correctly took note of the documented performance shortcomings over three performance cycles as well as the fact that Mr. Hampstead's performance did not improve despite the remedial measures put in place, such as two PIPs, the adjustment of output timelines, and continuous feedback, performance discussions and training that Mr. Hampstead had received over the years. The UNDT also correctly held that the Administration had followed the proper procedures for the termination of Mr. Hampstead's permanent appointment for unsatisfactory services.

Furthermore, the Appeals Tribunal found that contrary to Mr. Hampstead's assertion, the Administration's duty of care towards Mr. Hampstead was limited to ensuring that he was aware of the required standards and given a fair opportunity to meet those standards before terminating his permanent appointment for unsatisfactory service, a duty the Administration fulfilled. Therefore, the UNDT rightly concluded that Mr. Hampstead's managers were not privy to his medical records or health condition and, in any event, it would have been inappropriate for them to speculate on his health condition and its impact on his performance.

The Appeals Tribunal dismissed the appeal and affirmed Judgment No. UNDT/2023/053.

Decision Contested or Judgment/Order Appealed

Mr. Hampstead, a former DGACM staff member, filed an application with the UNDT contesting the decision to terminate his permanent appointment for unsatisfactory service.

In Judgment No. UNDT/2023/053, the UNDT found that Mr. Hampstead's performance had been evaluated in a fair and objective manner and that his due process rights had been respected. Mr. Hampstead's performance shortcomings had been documented over three performance cycles, and his performance did not improve despite the remedial measures put in place. The UNDT further held that the Administration had followed the proper procedures for the termination of Mr. Hampstead's permanent appointment for unsatisfactory services. The UNDT found no merit in Mr. Hampstead's claims regarding the Administration's alleged failures and actions in relation to his medical condition.

The UNDT therefore dismissed the application.

Mr. Hampstead filed an appeal.

Legal Principle(s)

Performance standards generally fall within the prerogative of the Secretary-General. The UNDT must accord deference to the Administration's appraisal of the performance of staff members, and cannot review *de novo* a staff member's appraisal, or place itself in the role of the decision-maker and determine whether it would have renewed the contract, based on the performance appraisal. and, unless the standards are manifestly unfair or irrational, the UNDT should not substitute its judgment for that of the Secretary-General.

In order to decide, if a valid and fair reason exists to terminate an appointment for poor performance, the Organization should consider whether the staff member in fact failed to meet performance standards and if so whether: i) the staff member was aware, or could reasonably be expected to have been aware, of the required standard; ii) the staff members was given a fair opportunity to meet the required standard; and iii) termination of appointment is an appropriate action for not meeting the standard in the circumstances.

Managers are required to record unsatisfactory performance and bring it to the attention of the staff member in a timely manner, in order to offer the staff member an opportunity to improve his or her performance. It is in the reporting cycle immediately after this given opportunity that the performance of the staff member

should be assessed to determine whether there has been an improvement. If the staff member does not fully meet the expectations for the second time in succession, then the appointment may be terminated for unsatisfactory performance.

Human resources management requires not only that the employer ensures the rights and benefits of the employees, but for employees to make every effort to maintain their technical or subject-matter competence and to finish their assigned work in compliance with the required standard.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Curt Hampstead

Entity

DGACM

Case Number(s)

2023-1837

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Jul 2024

President Judge

Judge Forbang

Judge Ziadé

Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Unsatisfactory service

Termination (of appointment)

Applicable Law

Administrative Instructions

- ST/AI/2010/5

Staff Regulations

- Regulation 1.2(c)
- Regulation 9.3(a)(ii)

Staff Rules

- Rule 13.1
- Rule 9.6(c)(i)

UNAT Statute

- Article 2.1

Related Judgments and Orders

2017-UNAT-757
2015-UNAT-500
2010-UNAT-084
2014-UNAT-421
2023-UNAT-1364
2023-UNAT-1396
UNDT/2023/053