

2025-UNAT-1524, Maria Alejandra Mouchabek

UNAT Held or UNDT Pronouncements

The UNAT noted that the staff member's letter regarding early retirement was to be considered a letter of resignation. The UNAT noted that a few months later she had sent another letter to the Administration requesting to withdraw her resignation. The UNAT found that the UNDT had not erred in law when it identified the contested decision as the decision not to accept the staff member's withdrawal of her resignation, and the UNDT's approach had not caused prejudice to her as it had been able to examine all her contentions.

The UNAT held that the staff member's resignation produced its legal effect without the need for the Administration to formally accept it.

The UNAT was of the view that the Administration had not accepted the staff member's withdrawal of her resignation for good reasons.

The UNAT dismissed the appeal and affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

A former staff member contested a decision concerning her separation.

In Judgment No. UNDT/2023/139, the UNDT identified the contested decision as the decision not to accept the withdrawal of the staff member's resignation, and dismissed the application on the merits.

The staff member appealed.

Legal Principle(s)

As early retirement relies, by definition, on a voluntary act “initiated by a staff member” with proper notice to the Administration, early retirement fits squarely within the definition of resignation governed by Staff Rule 9.2.

The UNDT enjoys wide discretionary power to evaluate the different elements provided in the application to identify the contested decision(s). The Appeals Tribunal shall not intervene lightly in the UNDT’s determination as far as it is supported by a “primary legal or factual basis”.

Resignation is a staff member’s unilateral act. To be valid, such an act must be made voluntarily, in writing, and with notice that respects the statutory notice period. It is only when the staff member wishes to resign on a shorter notice or with no notice that the resignation becomes conditional on the acceptance of the Secretary-General.

Resignation that is submitted with the required notice produces all its legal effects without the need for the Administration’s acceptance. If the staff member wishes to withdraw his or her resignation, the Administration retains a discretionary authority to accept that withdrawal.

Administrative manuals and guides lack legal authority as they are not meant to create substantive rights or obligations for the addressees. Administrative manuals and guides give practical advice to management and personnel undertaking their professional duties. They are subject and subservient to rules and regulations and to contractual rights and obligations. Therefore, such issuances are not binding and cannot modify or supplement the rights and obligations specifically provided for under the relevant regulations, rules and administrative instructions.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Maria Alejandra Mouchabek

Entity

ECLAC

Case Number(s)

2024-1898

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Apr 2025

President Judge

Judge Colgan

Judge Savage

Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discretionary authority

Procedure (first instance and UNAT)

Separation from service

Applicable Law

Staff Rules

- Rule 9.1
- Rule 9.2

Related Judgments and Orders

UNDT/2023/139

2012-UNAT-238

2020-UNAT-1022

2010-UNAT-020

2024-UNAT-1496