



The FFC explored different issues including the relationship between Aqel and the victim, the possibility of blackmail by the victim, the credibility of the victim and Aqel, and similar

8. By letter dated 4 September 2007, the Commissioner-General advised Aqel of her decision not to accept the JAB's unanimous recommendation and to dismiss his appeal. She stated that the FFC had "clear and convincing" evidence to support its findings that Aqel had sexually molested the victim, violated the instructions regarding the treatment of female patients only in the presence of a nurse, and misled the FFC with false statements. On 16 October 2007, Aqel's sister-in-law acknowledged receipt of the Commissioner-General's letter.

9. On 13 January 2008, Aqel filed an application with the former Administrative Tribunal. By letter dated 31 January 2008, the Executive Secretary of the former Administrative Tribunal returned the application to Aqel for refiling. It appears from the case dossier that Aqel did not receive the letter from the Executive Secretary until 7 July 2008. On 4 August 2008, the former Administrative Tribunal received an application in Arabic from Aqel. Aqel's submission was again returned to him for correction and refiling no later than 30 June 2009. The Secretariat of the former Administrative Tribunal received Aqel's corrected application on 29 June 2009. Aqel's application was sent to UNRWA on 31 December 2009. The Commissioner-General was [grr-Ge5y4\(09.m\)\]-4\(R\)-eat06\(i\)6\(o\)-q4\(r\)-2\(5\)-5\(t3-3](#)

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Considerations

23. The appeal should be regarded as timely because the initial submission of Aqel in Arabic was received within the prescribed time limit.

24. However, on the merits, the appeal must be denied as Aqel has failed to substantiate his claim. Accordingly, the contested decision is appropriate and must be confirmed.

25. Indeed, the outcome of this appeal depends on whether one agrees with the reasoning of the FFC, as reflected in the decision of the Commissioner-General, or the recommendation of the JAB.

26. In the opinion of this Tribunal, the facts supporting the termination decision were properly established by the FFC, which acted in an appropriate, careful, serious, and objective manner, affording due process to Aqel and the other persons interviewed. It is clear from an objective and dispassionate reading of the statements taken that they were untainted by any bias. Therefore, the claim that the FFC failed to act in the interest of the truth or was only interested in finding Aqel guilty is without merit. On the contrary, the detailed interviews and the substantiated findings of the FFC show that it acted in an objective and responsible manner in conducting its investigation and assessing the charges.

27. In addition to the contents of the statements, there has emerged clear and convincing evidence supporting a finding of misconduct which has not been successfully rebutted by Aqel. For example, as it has not been disputed that Aqel treated a patient without a nurse present, it is immaterial whether the nurse left at his request or upon permission from another senior official. The important thing is that there was misconduct and this fact alone is a sufficient basis for the decision.

28. Aqel was fully aware of the rule that female patients should be treated in the presence of a nurse. He took the risk of not complying with that rule, the specific purpose of which is to prevent situations such as the current one: incidents of inappropriate conduct, with conflicting claims.

29. His claim that there was no nurse at the clinic (which is not supported by the statements, as, while the nurse had other functions, she was also assigned to the clinic) is not valid. Nor has his claim that he repeatedly asked for a nurse to be assigned to the clinic been

proved. None of these contentions provide a sound reason for violating the aforementioned rule.

30. It is irrelevant that Aqel had treated the patient on two previous occasions without any problems, as that evidence is not clear enough to allow one to untangle the competing claims. Be that as it may, whether the doors and curtains were completely closed, ajar, or partially drawn, the important thing is that the incident occurred within the confines of a doctor's office, between a young patient of 17 years of age and a practitioner twice her age, in a doctor-patient relationship of trust, which is a typical situation in cases of sexual harassment.

31. Contrary to Aqel's contention, the investigation has not uncovered evidence to attribute any spurious claims to the victim. Poverty alone does not constitute such grounds and it is important to note that the victim and her family (who have an impeccable reputation, as the FFC was able to ascertain) rejected offers of financial compensation for

35. Having established misconduct and the se