



Judgment No. 2018-UNAT-877



Counsel for Appellant: Self-represented
Counsel for Respondent: Stéphanie Cartier

JUDGES

4. The UNDT failed to make reference to Mr. De Bondt's response to the Secretary-General's motion seeking leave to file a reply limited to receivability, in which he explained that his claim concerned the Organizati

Mr. De Bondt's Motion Seeking Leave to File Additional Pleadings

8. Mr. De Bondt requests leave to file additional pleadings to avoid a “misinterpretation” of his case. He reiterates that there has not been an administrative decision that he should have contested, but simply an error in that he was paid at a step lower than the step stipulated in his contract. He also emphasizes that the offi

motion.³ Mr. De Bondt has not demonstrated any exceptional circumstances which would justify the Appeals Tribunal exercising its discretion to allow him to file additional pleadings.

Merits of the appeal

13. Before the UNDT, Mr. De Bondt claimed that the Organization had not complied with his terms of appointment when it paid him at step levels lower than those stipulated in his 2009 and 2010 letters of appointment. The UNDT rejected his application on the ground that the application was not receivable *ratione materiae* because Mr. De Bondt had failed to request management evaluation and it was further not receivable *ratione temporis* because the application was filed more than three years after receipt of the contested decisions.

14. Article 2(1) of the Statute of the Appeals Tribunal provides:

1. The Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has:

- (a) Exceeded its jurisdiction or competence;
- (b) Failed to exercise jurisdiction vested in it;
- (c) Erred on a question of law;
- (d) Committed an error in procedure, such as to affect the decision of the case; or
- (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

15. Mr. De Bondt's appeal is defective in that it fails to identify any of the five grounds.2(ons)6(e)2t o 8

16. Further, we agree with the UNDT that Mr. De Bondt's application is not receivable *ratione materiae*. Mr. De Bondt claims on appeal that he was paid at steps 1 and 2, in 2009-2010 and 2010-2011, respectively, instead of at steps 10 and 7, as provided in his contracts. A payment to a staff member which is not in accordance with the terms of his or her appointment constitutes an administrative decision under Articles 2(1)(a) and 8(1)(c) and (d) of the UNDT Statute. Mr. De Bondt's contention (that he raised the discrepancy between his letters of appointment and his payslips with the officer who had signed his contracts for the 2009-2010 and 2010-2011 financial years on behalf of the Secretary-General) does not put the UNDT's finding into doubt. Article 8(1)(c) of the UNDT Statute and Staff Rule 11.2, subparagraphs (a) and (c) require staff members to seek management evaluation of the contested decision as a mandatory first step. The fact that Mr. De Bondt raised the issue with the officer who had signed his letters of appointment does not exempt Mr. De Bondt from having to request management evaluation of the contested decision. As Mr. De Bondt did not present any documents to the UNDT showing that he had filed a request for management evaluation, the UNDT did not err in dismissing his application as not receivable *ratione materiae*.

17. Finally, we also agree with the UNDT that Mr. De Bondt's application is not receivable *ratione temporis*. Pursuant to Article 8(4) of the UNDT Statute and Article 7(6) of the UNDT Rules of Procedure, an application shall not be receivable, if it is filed more than three years after the applicant's receipt of the contested administrative decision. In the present case, Mr. De Bondt became aware of the contested decisions when he received his payslips between 2009 and 2010/2011. He, however, filed his application with the UNDT only in 2018, more than seven years later. The UNDT therefore made no error in rejecting his application as not receivable *ratione temporis*.

Judgment

18. The appeal is dismissed and Judgment No. UNDT/2018/042 is affirmed.

Original and Authoritative Version: English

Dated this 26th day of October 2018 in New York, United States.

(Signed)

Judge Knierim, Presiding

(Signed)

Judge Murphy

(Signed)

Judge Halfeld

Entered in the Register on this 20th day of December 2018 in New York, United States.

(Signed)

Weicheng Lin, Registrar