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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/052

Judgment No.: UNDT/2023/055

Date: 14 June 2023

Original: English

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**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** New York

**Registrar:** Isaac Endeley

GOLDENBERG

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Christopher Davis

Nicholas Bittner

**Counsel for Respondent:**

Yehuda Goor, AS/ALD/OHR, UN Secretariat





## **Consideration**

### *The preliminary question of receivability*

17. The Respondent's contention is that the application is not receivable *ratione materiae* as the Applicant has elected to contest DHMOSH's advice, rather than her manager's decision as the contested decision. The Respondent submits that DHMOSH's advice is not a reviewable administrative decision and that the Applicant had been put on notice of this fact on multiple occasions.

18. Upon review of the file, the Tribunal finds that the Applicant's manager's decision to not grant her request to telecommute five days per week was in essence based on DHMOSH's determination that the Applicant did not require workplace accommodation. Therefore, the Tribunal finds that although DHMOSH's advice is



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28. The FWA p

her personal situation with her professional obligations. However, it would have been helpful for the Applicant to be forthright with her managers.

32. The Applicant further claims that she “is a person with disabilities” and that her “requested accommodation is reasonable, and her managers’ refusal to grant it is [disability] discrimination”. She further argues that nothing in the FWA policy should be read to supersede a disabled employee’s right to a reasonable accommodation. The Tribunal notes that DHMOSH reviewed the Applicant’s medical condition twice and found that she did not require a workplace accommodation. The Tribunal finds that the Director reasonably relied on DHMOSH determination regarding the status of





