



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Case No. 2010-060

**Shakir
(Appellant)**

v.

Secretary-General of the United Nations

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JUDGE MARK P. PAINTER, Presiding.

Synopsis

1. After a late appeal to the Joint Appeals Board (JAB), the applicant appealed to the United Nations Dispute Tribunal (UNDT), which found her appeal time-barred. She then presented—as a reason why the time limit should be waived—evidence of her lengthy hospitalization. But she presented this evidence for the first time before this court; the UNDT had no opportunity to consider it. All evidence is to be submitted to the UNDT. Under Article 2(5) of the Appeals Tribunal's Statute, we can, in exceptional circumstances, admit further evidence. But we will not admit evidence which was known to the party and could have, with due diligence, been presented to the UNDT. The UNDT is not a dress rehearsal. We affirm the UNDT's decision that the case is time-barred.

Facts and Procedure

2. The Appellant, Khiloud Shakir (Shakir) was a staff member of the United Nations. On 24 June 2005, Shakir joined the United Nations Assistance Mission for Iraq (UNAMI) as a Political Affairs Officer at the P-3 level under a six-month appointment of limited duration under the 300 Series of the former Staff Rules. Her contract was extended several times until its expiry on 28 February 2007.

3. By letter to the Secretary-General in August 2007, Shakir requested administrative review of several actions linked to the non-renewal of her appointment and requested his intervention to “[allow] her to return to work”. In January 2008, Shakir received a letter from the Chief, Administrative Law Unit, in reply to her request for review. The reply stated that her request was considered to be time-barred, and that, in any event, the decision not to renew her appointment was in accordance with the applicable regulations and rules.

4. In March 2008, Shakir's appeal to the JAB in New York was received. The Secretary-General filed a reply in June 2008. In September 2008, Shakir filed comments on the reply in which she addressed the question of the time bar of her request for administrative review. Shakir stated that she had been hospitalized for several months and that her daughter had been gravely ill, and referred to supporting medical documentation. She also mentioned that

telephone or the internet while admitted to hospital. Shakir also required outpatient treatment following her release from hospital.

8. Shakir submits that it is in the interest of justice that her statement of appeal be receivable by the Appeals Tribunal. Shakir requests us to declare her case receivable and to remand the matter to the UNDT to consider the facts and circumstances of the case.

Secretary-General's Answer

9. The Secretary-General submits that the UNDT, based on the evidence before it, correctly found that Shakir's application before the JAB was time-ba(ne)4(rnne)4(rnnoEMC62(p)-6 OE

Considerations

12.

