



1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Ms. Susan Lee Servas against Judgment No. UNDT/2012/102, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 2 July 2012 in the case of *Servas v. Secretary-General of the United Nations*. Ms. Servas appealed on 26 July 2012, and the Secretary-General answered on 8 October 2012.

**Facts and Procedure**

2. Ms. Servas is a national of Canada. She obtained temporary resident status in France for family reasons in February 2008.

3. Ms. Servas joined the International Trade Centre (ITC), Geneva, on 20 January 2009 as a locally-recruited G-5 Programme Assistant on a short-term appointment, which was

7. On 19 December 2011, Ms. Servas was granted permanent resident status in France.
8. On 18 January 2012, Ms. Servas filed an application before the UNDT, challenging the refusal to pay her the repatriation grant and travel expenses. The Secretary-General filed his reply on 20 February 2012, and Ms. Servas submitted observations on the reply on 28 February 2012.
9. On 19 June 2012, the UNDT held an oral hearing, and on 2 July 2012 issued Judgment No. UNDT/2012/102, denying Ms. Servas' application seeking a repatriation grant and travel expenses.

### **Submissions**

#### **Ms. Servas' Appeal**

10. The UNDT erred in procedure by failing to apply the legal framework set out in Staff Rule 3.18 to determine her eligibility for a repatriation grant.
11. Ms. Servas' internationally recruited status as a professional staff member should have been the starting point of the UNDT's analysis.
12. The UNDT erred in concluding the Secretary-General did not have discretionary authority in the interpretation of staff rules and on the condition of relocation. In this regard, the UNDT erred in considering that the part of France in which the Appellant resided was included in the Geneva duty station, among other things.
13. The UNDT erred in determining she was not eligible for travel on separation to Toronto, Canada, pursuant to Staff Rule 7.1(b). Specifically, the Appellant's service as a General Service staff member should have been credited toward the requirement of two years of continuous service. Eligibility for travel expenses is not the same thing as eligibility for home leave.
14. The UNDT failed to exercise jurisdiction to consider that "extraneous factors had tainted the contested decisions". In particular, Ms. Servas claims that the adverse decisions regarding her entitlement to a repatriation grant and travel expenses were made in retaliation for the Settlement Agreement, which is a protected activity.

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is dismissed. *Eligible staff members shall be entitled to a repatriation grant only upon relocation outside the country of the duty station.* Detailed conditions and definitions relating to eligibility and requisite evidence of relocation shall be determined by the Secretary-General. (Emphasis added)

21. Staff Rule 3.18 implements annex IV. Staff Rule 3.18(a) explains the purpose of the repatriation grant:

from service. Yet, [Ms. Servas], who had held temporary resident status in France since 2008, before she was recruited by ITC, has not relocated upon her separation

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Original and Authoritative Version: English

Dated this 28<sup>th</sup> day of June 2013 in New York, United States.

*(Signed)*

Judge Chapman, Presiding

*(Signed)*

Judge Simón

*(Signed)*

Judge Lussick

Entered in the Register on this 26<sup>th</sup> day of August 2013 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar