



1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Kevin O'Hanlon against Judgment No. UNDT/2012/031, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 29 February 2012 in the case of *O'Hanlon v. Secretary-General of the United Nations*.

Facts and Procedure

2. Mr. O'Hanlon entered the service of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) on 4 March 2000, on an initial fixed-term contract of one year. His contract was extended until 19 November 2005, when he was transferred under the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations Applying the United Nations Common System of Salaries and Allowances (Inter-Organization Agreement) to the Department of Safety and Security at the United Nations Secretariat in New York, where he took up a P-4, fixed-term contract under the 100 series of the Staff Rules. On 1 July 2008, Mr. O'Hanlon was transferred to the United Nations Office at Vienna (UNOV).

3. On 29 April 2010, the Human Resources Management Service (HRMS) at UNOV advised UNOV staff members that a process was underway to perform a one-time review for possible conversion of contracts to permanent appointments, pursuant to ST/SGB/2009/10 of 23 June 2009, entitled "Consideration for conversion to permanent appointment of staff members of the Secretariat eligible to be considered by 30 June 2009". Staff members who believed they met the criteria for conversion, but had not received individual confirmation of their eligibility, were invited to contact HRMS.

4. Mr. O'Hanlon contacted HRMS in this regard on several occasions. On 2 February 2011, however, he was advised that he was not eligible for conversion to a permanent appointment on the basis that, as of 30 June 2009, he had not served for five years on a 100 series appointment.

5. Mr. O'Hanlon filed an initial request for management evaluation on 1 April 2011, and submitted a complete request on 8 April 2011. He was notified on 23 May 2011 that the Secretary-General had decided to uphold the contested decision. Thereafter, he submitted an application to the Dispute Tribunal on 19 August 2011.

6. In its Judgment No. UNDT/2012/031, the UNDT found that the application was not time-barred, as argued by the Secretary-General, but was receivable, *ratione temporis*, as it had been filed within the appropriate deadlines set out in Article 8, paragraph 1, of the UNDT Statute.

The Tribunal held:

Although the ... provisions of the Statute require staff members to file their application with the Tribunal within 90 days of the expiry of the response period of 45 days for the management evaluation if no response to the request was provided, when the management evaluation is received after the deadline of 45 days but before the expiry of the next deadline of 90 days after the expiry of

10. He further submits that the UNDT erred in fact by stating that UNRWA staff members are not staff members of the Secretariat.

11. Mr. O'Hanlon contends that the UNDT disregarded substantive submissions, facts and arguments.

19. The Inter-Organization Agreement states that,

[i]n the case of a transferred or seconded staff member, service in the releasing organization will be counted for all purposes, including credit towards within-grade increments, as if it had been made in the receiving organization at the duty stations where the staff member actually served. In the case of a loaned staff member, service in the

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Dated this 28th day of March 2013 in New York, United States.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Lussick

Entered in the Register on this 24th day of May 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar