



JUDGE

am thrown out and I don't even have were [sic] to sleep this night'. The MEU LA forwarded the Applicant's email to an MEU Legal Officer, who in turn forwarded it to Mr. Von Ruben the same day for '[his] info and any action, as appropriate'.

... By a letter dated 17 November 2011, [the] MEU responded to the Applicant regarding the request for management evaluation of 4 and 8 November 2011, which had been submitted by the national staff members who were affected by the Mission's decision that they vacate their ... accommodation. The MEU response made no mention of the Applicant's 11 November 2011 eviction.

... In response to the 17 November letter, the Applicant emailed the following documents to MEU on 22 November 2011:

- (i) an undated and unsigned letter responding to the 17 November 2011 letter from [the] MEU;
- (ii) an eviction notice dated 14 November 2011 from Mr. Von Ruben addressed to the Applicant;
- (iii) the Applicant's response, dated 17 November 2011, to the eviction notice;
- (iv) Mr. Von Ruben's response of 18 November 2011 to the Applicant's letter of 17 November 2011;
- (v) the Applicant's response of 21 November 2011 to the eviction notice.

obligation to advise her as to the proper format a request for management evaluation

to summary, or default, judgment, premised upon its understanding of Articles 9 and 19 of the UNDT Rules of Procedure.

9. On the merits of the matter, the UNDT held that it was not asked to adjudicate the decision to discontinue accommodation for national staff members but, rather, the manner of the Applicant's eviction. Taking into consideration such international legal instruments as the Charter of the United Nations, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, the Dispute Tribunal found "it is the obligation of the Organization to: (i) ensure that the human rights of its staff members are not violated; (ii) take preventive and remedial steps to uphold said human rights; and (iii) provide an effective remedy to those staff members whose rights have been violated". The UNDT concluded that an eviction, if essential, could not be carried out in a way which violated "the dignity, human rights and security" of the Applicant or her rights of due process. As the Applicant was the only staff member evicted, the UNDT found that her forced eviction was not unavoidable. Having concluded that her rights were egregiously violated, the UNDT awarded the Applicant compensation in the amount of six months' net base pay.

Submissions

The Secretary-General's Appeal

10. The Secretary-General submits that the Dispute Tribunal erred in not providing him with an opportunity to respond on the merits of the case. He contends that the principle of *audi alteram partem*, the rules of natural justice and the jurisprudence of the Appeals Tribunal create a right to submit a Reply.

11. The Secretary-General further submits that he relied on case management directions from the UNDT that, if the application were found receivable, "the [Dispute] Tribunal [would] issue an appropriate Order requiring the ... Reply". In the absence of such an Order, which was never issued, the Secretary-General argues that the deadline for submission of a Reply on the merits was suspended.

12. The Secretary-General advises the Appeals Tribunal that he was unaware the UNDT was considering the merits of the case until the Summary Judgment was issued.

would have afforded both parties equal opportunity to express themselves and present the necessary arguments and evidence.

21. Not having proceeded in that way, the Judgment under appeal must be vacated insofar as it decides on the merits of the case.

Judgment

22.

Original and Authoritative Version: English

Dated this 2nd day of April 2014 in New York, United States.

(Signed)

Judge Simón, Presiding

(Signed)

Judge Faherty

(Signed)

Judge Lussick

Entered in the Register on this 13th day of May 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar