



UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Simmons  
(Appellant)

v.

Secretary-General of the United Nations  
(Respondent)

JUDGE INÉS WEINBERG DE ROCA, PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed

the medical evaluation formed adequate information in assisting the ABCC during its deliberation of her case.

7. In response to another request from the Secretary of the ABCC for confirmation of her 13 October 2009 statement that she was in the area around 2<sup>d</sup> Avenue and East 15<sup>th</sup> Street in order to pick up her son from camp, Ms. Simmons stated that she had nothing further to add and reiterated that she was on her way home from work when the accident happened.

8. The ABCC reviewed Ms. Simmons' claim on 10 December 2009 and 23 April 2010, but decided to seek additional information from Ms. Simmons prior to making a recommendation. On 26 May 2010, the Secretary of the ABCC advised Ms. Simmons of the ABCC meetings and asked her to provide "[d]ocumentary evidence from the school/day camp confirming that [her] child had been enrolled there and in attendance on the date of the accident, i.e. on 29 July 2009".

9. In an e-mail dated 27 May 2010, Ms. Simmons expressed her "complete shock" that the ABCC had not taken a decision, but now required further documentation. She stated that she did not make the statement imputed to her. She reiterated that her son "was indeed in the vicinity of [her] work place" on the date of the vehicular accident, and that "[she] had to pick him up on 2<sup>nd</sup> Avenue in Manhattan" before proceeding home to the Bronx, but was not able to do so due to the accident. Ms. Simmons submitted a supplementary statement to the ABCC on 7 June 2010.

10. The ABCC met again on 25 June 2010 to review Ms. Simmons' claim. Prior to that meeting, it had requested an advisory opinion from the Office of Legal Affairs, which it received on 14 April 2010. In that regard, the ABCC noted that Ms. Simmons had failed to provide the information it had requested about her son's enrolment in school or in camp on 29 July 2009. On the basis of the information available, the ABCC concluded that the injuries Ms. Simmons sustained as a result of the accident on 29 July 2009 could not be recognized as attributable to the performance of her official duties on behalf of the United Nations as, at the time of the accident, Ms. Simmons had not been travelling via the  
the accident, i.e. camp o/d(m)-7

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stresses that the fact that she had to pick up her son after work “does not mean that [she] was not on a direct route to [her] home from work”.

15. Ms. Simmons also submits that the UNDT erred in fact and in law when it rejected her application because of her alleged refusal to provide further information as to why she did not adopt a direct route on her way home from work. In her view, the ABCC’s request for additional information about her son’s school or day camp was excessive and unlawful.

16. Ms. Simmons maintains that the UNDT erred in law when it failed to apply the law or to observe statutory process in respect of official duty and eligibility in Appendix D, and when it failed to award compensation for emotional stress caused by the Respondent’s breaches of the Staff Regulations and Rules and the violation of her contractual and due process rights. Ms. Simmons states that she is ready to provide the Appeals Tribunal with any appropriate documentary evidence and authorizes this Tribunal to exercise its inherent investigatory jurisdiction to request the release of her medical records in the possession of the Medical Service.

The Secretary-General’s Answer

17. The Secretary-General submits that the UNDT applied the relevant legal framework to Ms. Simmons’ case. The Dispute Tribunal first referred to Articles 2(a) and 2(b) of Appendix D of the Staff Rules, which do not address the circumstances of Ms. Simmons’s accident. The Dispute Tribunal then recognized the ABCC’s practice to allow compensation for injuries



provisions [ ... ] shall not extend to private motor vehicle transportation sanctioned or authorized by the United Nations solely on the request and for the convenience of the staff member”.

25. The ABCC accepts that it has in the past allowed compensation claims for injuries sustained during travel to and from work by the most direct route, including by private vehicle. However, this practice cannot be authorized and/or expanded by the courts to cover injuries sustained during travel to and from work by an indirect route.

Judgment

26. We affirm the UNDT Judgment, as there is no error of law or fact. The appeal is dismissed.

Original and Authoritative Version: English

Dated this 2<sup>nd</sup> day of April 2014 in New York, United States.

*(Signed)*

Judge Weinberg de Roca,  
Presiding

*(Signed)*

Judge Adinyira

*(Signed)*

Judge Chapman

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

*(Signed)*

Weicheng Lin, Registrar