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Before

CaseN

Date:

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Couns

Couns

JUDGE RICHARD LUSSICK , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Yves Marcel Amany against Judgment No. UNDT/2014/018, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi on 7 February 2014 in the case of Amany v. Secretary-General of the United Nations . Mr. Amany filed his appeal on 8 April 2014 and the Secretary-General of the United Nations answered on 23 June 2014.

#### Facts and Procedure

2. The following facts are uncontested:<sup>1</sup>

... The Applicant joined the United Nations Children's Fund (UNICEF) in Abidjan, Côte d'Ivoire, on 1 August 1986, as a Supply Officer, grade 2.

...

... On 21 December 2008, the Applicant went on official mission to Guinea Conakry until 15 May 2010 and then he was on official mission to Benin from 1 June to 30 August 2010.

... Upon his return to Abidjan from Benin, a new organizational chart was in place. An international staff member was o

... On 28 December 2012, the Applicant acknowledged receipt of a letter dated 27 December 2012 from the UNICEF Representative informing him of the non-renewal of his contract.

... On 31 January 2013, the Applicant sent a letter to the UNICEF Representative to raise objections against his decision stating that the Administration had not respected Administrative In

5. Mr. Amany further contends that the letter notifying him of his non-renewal should have informed him of the time limit to contest the non-renewal of his appointment. He should have been advised of the proper procedures to follow when he acknowledged receipt of the decision on 31 January 2013 and indicated his intention to contest it. That same day, Mr. Amany also addressed a letter to the Representative of the Office in Abidjan notifying him that he had the intention to contest the non-renewal of his appointment. If the way he proceeded to contest his non-renewal was indeed incorrect, either the Representative or the Director of Human Resources should have informed him accordingly.

6. Mr. Amany requests that the Appeals Tribunal vacate the impugned Judgment and consider the merits of his case.

#### The Secretary-General's Answer

7. The UNDT correctly dismissed Mr. Amany's application as not receivable on the basis that Mr. Amany had failed to request management evaluation of the contested administrative decision as a mandatory first step prior to filing an application with the UNDT.

8. Contrary to Mr. Amany's contention, the administrative decision at issue in the present case is the decision not to renew Mr. Amany's appointment and not a decision to impose a disciplinary measure following the completion of a disciplinary process. Accordingly, Mr. Amany erred in characterizing his separation from UNIm8(om UNIm u660 TD -.0172 Tc .14762Tw [(a EFs a )5sc)5169

Considerations

11. In his appeal against the UNDT's Judgment that his application was not receivable, Mr. Amany argues that the contested administrative decision not to renew his fixed-term contract was in reality a disciplinary measure, that

16. In Mr. Amany's case, his first step was not a request for management evaluation. The UNDT found that Mr. Amany did not request management evaluation until 28 March 2013, which was three days after submitting his UNDT application. Moreover, since Mr. Amany acknowledged receipt of the contested decision on 28 December 2012, his request for management evaluation should have been filed no later than 26 February 2013, which would have been within the 60-calendar day deadline.

17. It is settled case law that requesting management evaluation is a mandatory first step in the appeal process. The Appeals Trib5.12 Tm 0 Tc 68 TD61hAmany did a a

Original and Authoritative Version: English

Dated this 26<sup>th</sup> day of February 2015 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Weinberg de Roca

(Signed)

Judge Faherty

Entered in the Register on this 17<sup>th</sup> day of April 2015 in New York, United States.

(Signed)

Weicheng Lin, Registrar