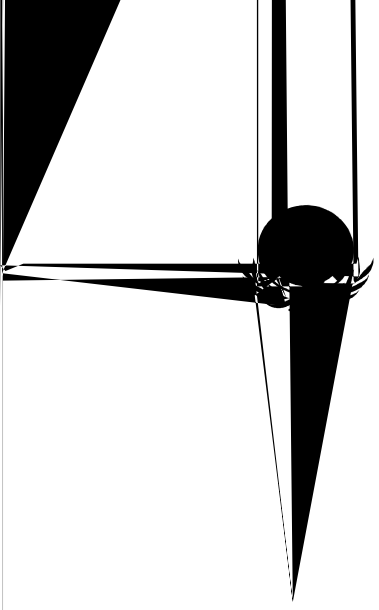

from, and to proceed with his separation from OCHA as of 7 September 2007, which he contended was the date on which he had exhausted his accrued annual leave before the start of his SLWOP. He noted that this would allow him to "start afresh and be paid the repatriation grant from UN at the dependency rate since at the time of separation [he] still had [his] daughter [C.] as [his] dependent".

18. By email of 31 December 2008, the Applicant's wife inquired with OHRM about the "adjustment going back from about a year" which she noticed in her "September Salary", which she believed related to the fact that the child C. had been "transferred to [her] from the date [the Applicant] left OCHA Geneva". She further asked that her child C. be "remove[d]" as her dependent effective 3 November 2008, since her husband, the Applicant, "took up a temporary P-5 post with ICAO in Montreal" on that date and was "the higher earner". By email sent in reply on 2 January 2009, the Applicant's wife was told that the action requested would be taken, and that "the reason UNOG k[ept] quoting 29/8/2007 [was] because [her] husband was on [SLWOP] effective that date", and that "[h]e was not entitled to receive dependency benefit for [her] daughter [C.]".

19. On 14 July 2009, the Applicant requested HRMS, UNOG, to process his separation from the United Nations and to pay him his repatriation grant, as this payment had not been made yet. He sent subsequent reminders on 5 October 2009, 10 January 2010, and 21 January 2010.

20. The PA processing the Applicant's separation from the Organization on 25 September 2008 was approved on 28 January 2010; at the time he had no dependents listed. On the same day, the Officer-in-Charge, Human Resources Unit, OCHA, emailed the Applicant to inform him that his request to cancel his SLWOP was not granted, since he had been kept on SLWOP in order to be able to be considered as an internal candidate for positions to which he wished to apply. By email of 1 February 2010, the Applicant expressed his disagreement with this decision; this notwithstanding, he was informed by email of 16 February 2010 that the decision was maintained, to which he objected.

21. By email of 17 March 2010, the Chief, AO, OCHA, agreed to review the Applicant's case and asked him to provide "a summary overview of the issues", which the latter did on 22 March 2010.

22. After a series of reminders, the Officer-in-Charge, Human Resources Unit, OCHA, informed the Applicant on 10 September 2010 that for OCHA "the case [was] considered to be resolved", based on the previous emails of 28 January 2010 and 16 February 2010. He agreed, however, to give the file to a new staff member who would review the Applicant's request a last time.

23. The Applicant replied on 13 September 2010 that he would "take it up via another route" and hence requested that OCHA "proceed to pay the Repatriation Grant at [the Officer-in-Charge's, Human Resources Unit, OCHA] chosen separation date", and to ensure that the Applicant had "dependency status on whatever separation date [the Officer-in-Charge, Human Resources Unit, OCHA] establish[es], since that never changed at any time and [he] never requested or was aware of any change in [his] status", and that his "last day of AL [be] corrected from 5 to 7 September 2007 … and that [his] final salary [be] paid".

24. On 6 December 2010, as he had not received any reply to his request, the Applicant sent a reminder.

25. An Applicant's payslip for the pay period of December 2010, which the Applicant received apparently in January or February 2011 (see para. 27 below), included the following indications in the column "retroactive":

27. By email of 10 February 2011 addressed to the Payroll Unit, the Applicant inquired regarding the details of his payslip for December 2010 he had received in his mail. In a reply which the Applicant received the following day, the Payroll Unit indicated that the payslip was "the detail of [his] Separation payment form OCHA", provided explanations pertaining to the period concerned ("29 August to 4 September 2007"), and indicated that the payment included "the travel days" he was due and the repatriation grant, which was for the time being "held in escrow", pending his "proof of relocation".

28. The Applicant replied to the above explanations on 22 February 2011 and raised some issues (namely number of days added, medical insurance contribution, deduction for staff assessment, and annual leave). By email of the same day from the Payroll Unit, he was reminded that his "child [C.] was discontinued effective 29/08/2007". He was further provided with an "excel file with [details] of the deductions/payments made for August 2007, which might

43. On 9 September 2013, the Applicant requested leave to submit comments on the Respondent's reply; those comments were already attached to the Applicant's motion for leave.

44. By Order No. 147 (GVA/2013) of 3 October 2013, the Tribunal ordered the Respondent to provide additional information relating to the issue of the payments made to the Applicant on 22 December 2011 and 22 December 2012.

45. The Respondent submitted the requested information on 9 and 16 October 2013, and completed it by an addendum on

over one and a half years ago, and the Applicant did not request management evaluation within the 60-day deadline;

b. The Applicant submitted proof of his relocation in October 2011, so he should have expected that the payment would be done around November or December 2011; the date of the payment should be considered as the date of the notification of the contested decision, namely December 2011, and as a result, the application is obviously time-barred;

c. The Applicant's failure to realize that he received payment of his repatriation grant on 22 December 2011 is the result of his failure to exercise due diligence, and not the fault of the Ad

> A. Incorrect dependency status so repatriation grant underpaid by USD20,780.
>
> B. Exchange loss due to repatriation grant payment delays CHF13,500.
>
> C. Annual leave balance understated by 2 days.
>
> D. No repatriation travel ticket paid.

53. For points C and D above he noted however that these were "not significant" and that he was "willing to forego" them.

54. Finally, in his completed application filed on 2 August 2013, the Applicant explained that the repatriation grant was paid to him at the single rate following a refusal to rescind his SLWOP or to correct his dependency status, which had been changed "unbeknown to [him]" following the change in his "wife's status to record [him] as her dependent after [their] marriage". He indicated that he had been informed of the decision to refuse the cancellation of his SLWOP on 28 June 2010, and of the "basis of the repatriation grant payment" on 11 March 2013. In Section IX of the application form, he listed the remedies he requested as follows:

> 1. Payment of repatriation grant at the dependency rate instead of single rate (underpaid by USD20,780).

56. Against this background, the Tribunal recalls what the Appeals Tribunal held in *Massabni* 2012-UNAT-238, namely that:

> 2. The duties of a Judge prior to taking a decision include the adequate interpretation and comprehension of the applications submitted by the parties, whatever their names, words, structure or content they assign to them, as the judgment must necessarily refer to the scope of the parties' contentions. Otherwise, the

Receivability ratione materiae

59. Pursuant to art. 2.1 of its Statute, the UNDT has jurisdiction to consider applications appealing an administrative decision only when the staff member has previously submitted the impugned decision for mana

67. From the above chronology of events, it follows that already at the beginning of 2011, when he had received his payslip, the Applicant was necessarily aware of the amount of repatriation grant he would receive. Indeed, based on the explanations he had received at that time from the Payroll Unit, which reminded him of the fact that his daughter had been "discontinued effective 29 August 2007" and provided him with an excel file with the differences "Dependent/Single" for the amounts listed in his payslip, the Tribunal considers that by then he knew or at least should have been reasonably aware that the repatriation grant had been calculated at the single rate and not at the dependency rate. This is further confirmed by the fact that the Applicant had stated in his email of 22 February 2011 that his final payslip showed "that the actions on … dependency status were not taken" (see para. 31 above). Thus, already at that date he must have been aware of the fact that the repatriation grant had been calculated at the 'single' rate.

68. Therefore, February 2011 has to be considered as the date of the notification of the decision, from which the 60-day deadline set forth under staff rule 11.2(c) started to run. However, the Applicant submitted his request for management evaluation only in April 2013, which is obviously not in time and renders his application before the Tribunal irreceivable.

69. Even if one were to conclude, in favour of the Applicant and for the sake of argument, that he was duly notified of the decision to pay his repatriation grant at the single rate only when he was informed of the actual payment of the amount into this bank account, i.e. on 21 December 2012, the request for management evaluation he submitted on 29 and 30 April 2013 would still be time-barred.

70. Contrary to what the Applicant claims, the email he received on 11 March 2013 from the Payroll Unit with details of the calculation is merely an explanation for the amount received and does not constitute an administrative decision in itself. Such a mere explanation had no effect on the Applicant's legal rights; rather, it is the payslip of December 2010 which contains the administrative decision that is being challenged.

71. In view of the above, and since the request for management evaluation was only submitted in April 2013, it is clearly time-barred. The Tribunal therefore concludes that the application, with respect to the decision to pay the Applicant his repatriation grant at the single rate rather than at the dependency rate, is not receivable.

Conclusion

72. In view of the foregoing, the Tribunal DECIDES:

The application is rejected in its entirety.

(*Signed*)

Judge Thomas Laker

Dated this 16th day of June 2014

Entered in the Register on this 16th day of June 2014

(*Signed*)

René M. Vargas M., Registrar, Geneva