

Introduction

1. On 1 December 2020, the Applicant, a staff member with the Logistics Division of the Office of Supply Chain Management within the United Nations Department of Operational Support, filed an application contesting the following decisions relating to alleged changes to his reporting line:

a. “The removal of the Chief, Movement Control Section (“MCS”) as the Applicant’s first reporting officer (“FRO”) and supervisor, and replacement with a fellow movement control officer whom the Chief, MCS had designated a Team Leader;

b. The promulgation of separate Terms of Reference for MCS movement control officers based on their designation by the Chief MCS as Team Leaders or Team Members (the Applicant having been designated a Team Member) which purports to formalise the reporting line established by contested decision (a);

c. The decision (actual or implied) to grant the Chief MCS the authority to designate and remove movement control officers, including the Applicant,

3. On 17 December 2020, the Tribunal granted the Respondent's motion to have the receivability of the application determined as a preliminary matter.

4. For the reasons stated below, the Tribunal finds that the application is receivable only in respect of contested decision (b) relating to the changes in his reporting line. However, the matter is moot as the Administration designated an officer at the P-4 level from the Applicant's section as the Applicant's FRO, addressing the Applicant's immediate concerns while his department's structure remains in flux.

Facts

5. The Applicant serves as a Movement Control Officer at the P-3 level in the MSC of the Logistics Division, Office of Supply Chain Management, Department of Operational Support in New York.

6. The functional structure of the MSC consists of the following posts: one Chief, MCS at the P-5 level, seven Movement Control Officers at the P-3 level (including the Applicant), and four Movement Assistants at the General Service Levels.

7. The Applicant's FRO was the Chief, MCS and his second reporting officer ("SRO") was the Head, Logistics Division (D-2 level).

8. In 2018, MCS informally implemented, initially on a trial basis, a new team structure under which Movement Control Officers and Movement Assistants were assigned to one of three teams: the Cargo Movement Team, the Passengers Movement Team, and the Enabling Team. MCS movement control officers were designated Team Leaders or Team Members by the Chief, MCS. The Applicant was designated a Team Member of the Cargo Movement Team.

9. In late April 2020, the Chief, MCS informed the MSC team of a change to the staff members' reporting lines. The change in reporting line was that each Team Leader at the P-3 level would serve as the FRO for the Movement Control Officers (including

the Applicant) and Movement Assistants in her/his team, with the Chief, MCS becoming the SRO.

10. On 3 August 2020, the Applicant sought management evaluation of the decisions relating to the change to his reporting line, principally disagreeing with the decisions of the Chief, MCS to designate a fellow Movement Control Officer at the P-3 level as his FRO, and to formalize the supervisory line with terms of reference.

11. On 25 August 2020, the Applicant's reporting line was changed designating as his FRO an Air Operations Officer at the P-4 level of the Transport and Movement Integrated Control Centre located in Entebbe, Uganda.

Considerations

Receivability

12. The Respondent states that the application is not receivable because the Applicant fails to establish a contested decision that violates his terms of appointment. The Respondent notes that the Applicant identifies a number of documents as the decisions he seeks to contest. However, none of those documents communicate a reviewable administrative decision.

13. In *Selim2015-UNAT-581*, the Appeals Tribunal stated that a statutory burden is placed upon an applicant to establish the administrative decision in issue. Such a burden cannot be met where the applicant fails to identify an administrative decision capable of being reviewed. Moreover, an administrative decision must be such that its date is based on objective elements that both parties (Administration and staff member) can accurately determine.

18. The Tribunal notes that the terms of reference do establish changes in the Applicant's reporting line, namely, that the Applicant as a Movement Control Officer will report to a fellow P-3 level Team Leader as his FRO and to the Chief, MCS as SRO. The Applicant previously reported to the Chief, MCS (at the P-4 level) as his FRO and the Head, Logistics Division as his SRO (at the D-2 level). Based on this, the Tribunal finds that the record confirms that there was a change to the Applicant's reporting line.

19. To be reviewable, an administrative decision must have the key characteristic in that it must "produce direct legal consequences" affecting a staff member's terms or conditions of appointment.¹ The Tribunal finds that the change to the designation of the Applicant's FRO and SRO are contestable administrative decisions. As this Tribunal has recently reaffirmed in *Teklie 2020/UNDT/031*, "the assignment of a SRO, who plays a significant role in a staff member's performance appraisal – the legal consequences of which are obvious – does affect the terms and conditions of the Applicant's appointment." The Tribunal considers the same rationale would apply to the designation of an FRO who also plays a primary role in a staff member's performance appraisal. Accordingly, the contested change to the Applicant's reporting officers do falls under the Tribunal's jurisdiction and is a reviewable administrative decision. The second contested decision is therefore receivable.

Case No. UNDT/NY/2020/043

Judgment No. UNDT/2021/028