



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2018-UNAT-879

Nimer
(Appellant)
v.
Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East
(Respondent)

JUDGMENT

Before:	Judge Sabine Knierim, Presiding Judge John Murphy Judge Richard Lussick
Case No.:	2018-1172
Date:	26 October 2018
Registrar:	Weicheng Lin

Counsel for Mr. Nimer:	Mohammad Mustafa Abdullah
Counsel for Commissioner-General:	Rachel Evers

JUDGE SABINE KNIERIM, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNRWA/DT/2018/014, rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or UNRWA Dispute Tribunal and UNRWA or Agency, respectively) on 15 February 2018, in the case of *Nimer v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. Mr. Alaa Eddin Fayez Nimer¹ filed the appeal on 24 April 2018, and the Commissioner-General filed his answer on 25 June 2018.

Facts and Procedure

2. On 25 June 2006, Mr. Nimer entered the service of UNRWA as a teacher. At the time of the events relevant to the application before the UNRWA DT, Mr. Nimer was a teacher at Beer Saba'a School in Khan Eshieh camp near Damascus, Syria.

3. On 1 July 2014, Mr. Nimer's house was hit by a barrel bomb. Mr. Nimer suffered minor injuries, but his wife sustained major ones. She spent two months in Al-Muwasat Hospital in Damascus, followed by treatment in private hospitals. Lack of medical resources in Syria to treat the type of injuries suffered by Mr. Nimer's wife compelled her to seek treatment in Turkey.

4. By letter dated 27 November 2016, addressed to the Head, Education Department (H/ED) through the Principal of Beer Saba'a School, Mr. Nimer requested Special Leave Without Pay (SLWOP) for a year effective 1 December 2016 in order to accompany his wife to Turkey.

5. On 13 December 2016, when reviewing the attendance records of its staff in Khan Eshieh camp, the Commissioner-General noted that Mr. Nimer had not reported to duty since 1 December 2016.

6. By letter dated 11 January 2017 to Mr. Nimer, the Officer-in-Charge UNRWA Affairs, Syria Field Office (OiC) reminded Mr. Nimer that he had not reported to duty since 1 December 2016, and requested him to report to duty no later than 31 January 2017 and/or provide an explanation for his absence. The said letter further stated that his failure to do so would result in his separation from service for abandonment of post.

¹ The Appeals Tribunal has adopted the spelling of his first name used by the UNRWA DT.

7. On 31 January 2017, Mr. Nimer received the letter of the OiC through his School Principal.

8. On the same day, Mr. Nimer reportedly submitted a request for decision review challenging UNRWA's "implied administrative decisions" to (1) deny his request for SLWOP; and (2) terminate his employment due to abandonment of post.

9. On 5 February 2017, Mr. Nimer sent a letter to the OiC explaining the circumstances of his absence.

10. On 16 March 2017, Mr. Nimer filed an application with the UNRWA Dispute Tribunal contesting the Agency's decisions to (1) deny his request for SLWOP; and (2) terminate his employment due to abandonment of post.

11. By motion dated 23 August 2017, Mr. Nimer requested leave to amend his request for remedies as his original application before the UNRWA DT had not included a request for moral damages. His motion was granted by Order No. 114 (UNRWA/DT/2017) dated 30 August 2017. Consequently, Mr. Nimer filed a request "for compensation for the moral damages that he suffered due to the contested decisions" on 13 September 2017.

12. On 24 January 2018, the UNRWA Dispute Tribunal issued a notice of hearing convoking the parties to a hearing on 7 February 2018. By e-mail dated 25 January 2018, Mr. Nimer's representative, Mr. Abdullah, requested the UNRWA Dispute Tribunal to move the date of the hearing. On 25 January 2018, the UNRWA Dispute Tribunal issued an amended notice of hearing moving the date of the hearing to 8 February 2018. Mr. Nimer and his representative confirmed their intent to be in attendance at the hearing. The Commissioner-General confirmed his participation by video-link as did the witnesses.

13. On 5 February 2018, Mr. Nimer's representative filed a motion requesting the UNRWA Dispute Tribunal to facilitate his presence at the hearing.

14. By Order No. 020 (UNRWA/DT/2018) dated 5 February 2018, the UNRWA Dispute Tribunal denied the motion, holding, *inter alia*, as follows:²

² Order No. 020 (UNRWA/DT/2018), paras. 18-20.

... As it is clear from Article 8 (2) [of the UNRWA DT Rules of Procedure] that the Agency's framework specifically provides that a party may be represented by a staff member, it is unquestionable that the Agency has to allow the representative to attend the hearing as any other representative would, either in person, by telephone or via video-link.

... However, it is not for the [UNRWA Dispute] Tribunal to dictate the conditions under which a staff member will be released from his normal post duties for the purpose of representing a party in a case before the [UNRWA Dispute] Tribunal. The staff representative is voluntarily representing [Mr. Nimer], and it is certain that his tasks in representing [Mr. Nimer] are not related to his post duties as a teacher.

... Just as the [UNRWA Dispute] Tribunal cannot order the Agency to pay for any legal or other representation for an Applicant, it cannot, in this case, order the Agency to compensate the staff representative for performing tasks during normal working hours that are unrelated to his post duties. However, in the interests of justice, the [UNRWA Dispute] Tribunal is hopeful that the Agency and staff representative will find a workable solution in order to allow the staff representative to attend the hearing either in person, by telephone or via video-link.

15. A hearing was held on 8 February 2018. Two hours before the hearing, Mr. Nimer and his representative informed the UNRWA Dispute Tribunal that they would not attend the hearing. In his communication, Mr. Nimer's representative stated that he had been denied the approval to leave his duty station during working hours to attend the hearing. He also referred to previous occasions where the Agency had granted approval for him to leave his duty station to attend mediation sessions in cases in which he was representing other applicants. He added that under these circumstances, i.e. his absence from the hearing, he would advise Mr. Nimer against participating in the hearing via telephone from Turkey. Mr. Nimer indeed informed the UNRWA DT by e-mail that he would not participate in the hearing via telephone. The UNRWA Dispute Tribunal heard by video-link the testimony of the School Principal and immediate supervisor of Mr. Nimer, and the testimony of the H/ED.

16. The UNRWA DT rendered its Judgment on 15 February 2018, dismissing the application in its entirety. Regarding Mr. Nimer's representative's alleged inability to attend the oral hearing, the UNRWA DT found no procedural violation. In particular, the UNRWA DT considered—based on the evidence submitted by the Commissioner-General after the hearing—that Mr. Nimer's representative had failed to request leave from the Agency to attend the hearing, had made no attempt to utilise any other means such as telephone or video-link to participate in it and had not filed any motion with the UNRWA DT requesting an additional change of the hearing date.

17. On the issue of SLWOP, the UNRWA DT considered that the application was not receivable *ratione materiae* as no administrative decision had been taken by the Agency with regard to Mr. Nimer's request for SLWOP. The UNRWA DT found that the written request for SLWOP Mr. Nimer had sent on 27 November 2016 via the School Principal did not respect the required one-month notice period before his intended leave date, and he had ceased to report for duty three days later, on 1 December 2016. However, as the request sent by pouch by the School Principal never reached the responsible Area Education Office or the H/ED and as Mr. Nimer never reported in order to sign the proper forms for SLWOP, the Agency has not decided on his request.

18. On the issue of termination, the UNRWA DT dismissed the application on the merits. It considered that the Agency's decision to terminate Mr. Nimer's employment by reason of abandonment of post was made in accordance with the applicable Regulations and Rules and other administrative issuances. In particular, Mr. Nimer had failed to comply with his obligations as a staff member, when he absented himself from work from 1 December 2016 until the date of his termination on 31 January 2017 and had failed to provide an explanation for his unauthorised absence by the deadline of 31 January 2017 as contained in the OiC's letter dated 11 January 2017.

19. Not having found any illegality in the Agency's decisions, the UNRWA DT declined to grant any of the relief sought by Mr. Nimer.

Submissions

Mr. Nimer's Appeal

20. Mr. Nimer contends that the UNRWA DT erred in procedure and violated his right to equal treatment and proper legal representation by preventing his representative from participating in the oral hearing. When the UNRWA DT issued a notice of hearing ordering Mr. Nimer's representative to appear in person on 7 February 2018 which was the first day of school, it willingly or negligently disregarded the reality of the representative's employment situation as a teacher working for the Agency. In response to Mr. Nimer's motion, the UNRWA DT merely rescheduled the hearing for the following day but did not change the location or time of the hearing. Rather than expressing its hope that the Agency and staff representative find a workable solution, the UNRWA DT should have settled the matter with a clear order

under Article 14 of its Rules of Procedure, stating that the representative should be allowed to participate in the oral hearing.

21. Mr. Nimer further argues that the UNRWA DT committed errors of fact. In particular, it incorrectly stated that his request for SLWOP had not been filed in a timely fashion whereas in fact, he had submitted it in accordance with the chain of command and the life-threatening circumstances in Syria made it impossible for him to deliver it personally to the H/ED or to send his father on the dangerous way to Damascus City. The UNRWA DT erred in accepting the H/ED's testimony when it contradicted that of the School Principal. Had the H/ED indeed received an e-mail or a phone call from the School Principal stating that Mr. Nimer had requested SLWOP, then Mr. Nimer would have received an immediate response that his request was formally incorrect while he was waiting to leave for Turkey for three days after submitting his leave request.

22. The UNRWA DT failed to note the exceptional circumstances that Mr. Nimer experienced when he was waiting for human traffickers to transport him to Turkey and was unable to communicate at that time.

23. The UNRWA DT erred when it found that, upon receiving the 11 January 2017 letter, Mr. Nimer waited until 5 February 2017 to respond. He had already provided the required explanation for his absence before he received the 11 January 2017 letter on 31 January 2017 by submitting a request for decision review on 29 January 2017. The Commissioner-General himself states and concedes that Mr. Nimer submitted a review request on 29 January 2017. Moreover, the 11 January 2017 letter afforded a 21-day time limit to respond which has to reasonably be interpreted as starting from the date of the effective receipt of the letter. Having received the letter on 31 January 2017, he could not be blamed for replying only five calendar days later on 5 February 2017.

24. With respect to the decision to deem him to have abandoned his post, Mr. Nimer submits that the UNRWA DT erred in procedure when it failed to require the Commissioner-General to respond to his challenge of the decision. In addition, the UNRWA DT exceeded its substantive jurisdiction by putting itself in the place of the Agency by considering that the decision to deem Mr. Nimer to have abandoned his post was lawful. The UNRWA DT ought to have held back before tarnishing him as being neglectful and irresponsible. In particular, it disregarded the fact that his record of service was plainly unimpeachable, his performance had been rated as

outstanding for years and he had not been absent a single day throughout his years of service up until 1 December 2016. The UNRWA DT also erred in failing to take into consideration his exceptional circumstances and *force majeure*.

25. Based on the foregoing, Mr. Nimer requests that the Appeals Tribunal vacate the UNRWA DT Judgment and remand the case for a *de novo* hearing before a different Judge. He further asks to be granted the relief he had requested before the UNRWA DT, namely one year of SLWOP from 1 December 2016 to 1 December 2017, rescission of the decision to separate him for abandonment of post and moral damages.

The Commissioner-General's Answer

26. The Commissioner-General submits that Mr. Nimer has not established any errors warranting a reversal of the UNRWA DT Judgment or a remand of the case to the UNRWA DT for a *de novo* hearing.

27. Mr. Nimer has not demonstrated how the alleged procedural error resulting from his representative's non-participation in the oral hearing affected the decision of the case in particular as the evidence underlying the impugned decisions as such remains unassailed. The UNRWA DT was cognizant of the wide margin of discretion in matters of case management and indeed issued an amended notice moving the date of the hearing at Mr. Nimer's request. Moreover, the representative's non-attendance was solely at his own volition and cannot be attributed to the UNRWA DT since he had notified the UNRWA DT that he would not be attending the hearing due to having been denied permission to leave his duty station while on the same day seeking urgent leave from his work in order to go to the Central Court Complex in Amman.

28. Further, the UNRWA DT did not commit an error in procedure by failing to request the Commissioner-General to submit a substantive reply on the issue of termination for abandonment of post, nor did it exceed its jurisdiction by considering the matter without his submissions. The UNRWA DT was cognizant of its wide margin of discretion in matters of case management and correctly considered the issue by relying on the relevant legal framework, reviewing the evidence on the record and concluding that the termination decision was lawful.

29. The Commissioner-General further asserts that while Mr. Nimer has identified alleged errors of fact, he has not demonstrated that the findings of fact were not supported by evidence or that they were unreasonable as required by the established Appeals Tribunal jurisprudence. The contested finding that Mr. Nimer's request for SLWOP had not been received by the H/ED was based on the H/ED's testimony and thus sufficiently supported by evidence. Regarding the second alleged error of fact, the Commissioner-General submits that the issue of whether Mr. Nimer submitted a timely decision review request did not form part of the impugned Judgment and is therefore irrelevant for purposes of the appeal.

30. The Commissioner-General further submits that the UNRWA DT did not err as a matter of law when it dismissed the application on the merits. The UNRWA DT referenced the relevant legal framework, reviewed the evidence and correctly concluded that no administrative decision had been taken on Mr. Nimer's SLWOP request and that the decision to terminate his employment for abandonment of post was lawful.

31. Consequently, the relief sought by Mr. Nimer has no legal basis. In light of the foregoing, the Commissioner-General requests that the Appeals Tribunal dismiss the appeal in its entirety.

Considerations

Request for an oral hearing

32. Mr. Nimer's request is denied. Under Article 8(3) of the Statute of the Appeals Tribunal and Article 18(1) of the Appeals Tribunal Rules of Procedure, oral hearings may be held where they would "assist in the expeditious and fair disposal of the case". In light of the availability of the recording of the oral hearing before the UNRWA DT, there is no need for, or added value to, further clarification, and the factual and legal issues arising from this appeal have been clearly defined by the parties. We note, further, that Mr. Nimer and/or his representative could have participated in the oral hearing held before the UNRWA DT.³ It is only before the Dispute Tribunal as the court of first instance that oral hearings form a common part of the proceedings while the Appeals Tribunal will only hold hearings under very exceptional circumstances.

³ See also further below, para. 33.

Mr. Nimer's representation

33. The UNRWA DT did not commit an error of procedure such as to affect the decision of the case by failing to order the Agency to allow the participation of Mr. Nimer's representative in the oral hearing or by failing to accommodate the latter's employment situation. While a staff member has a right to be represented by another staff member pursuant to Article 8(2) of the UNRWA DT Rules of Procedure, the UNRWA DT has wide discretion in matters of case management.⁴ In this case, Mr. Nimer's representative did not submit an additional motion requesting another change of the hearing date, made no attempt to participate via telephone, video-link etc. and failed to request leave from work in order to attend the oral hearing before the UNRWA DT. On the contrary, the documentary evidence shows that Mr. Nimer's representative requested and was granted leave on the very day of the oral hearing to pursue some other private business. It was thus within the UNRWA DT's discretion to encourage an amicable solution rather than to order the Agency to give his representative permission to absent himself from work in order to attend the hearing. We note, further, that even if there was a procedural error Mr. Nimer would need to show that this error affected the decision of the case,⁵ which, in the present case, he has not done.

SLWOP

34. The UNRWA DT did not err on a question of fact, resulting in a manifestly unreasonable decision when it determined that the H/ED had not received Mr. Nimer's request for SLWOP and, consequently, that there had not been an administrative decision with regard to this request.

35. The UNRWA DT did not err in relying on the testimony of the H/ED when it found that she had not received a request for SLWOP by Mr. Nimer. The H/ED testified that she "did not receive any written letter from [Mr. Nimer]" but "a letter signed and stamped by the school principal". Like the UNRWA DT, we are not convinced that the H/ED indeed did receive the 27 November 2016 letter which contained a request for SLWOP by Mr. Nimer and was also stamped and signed by the School Principal.

⁴ Article 14 of the UNRWA DT Rules of Procedure; *Mohanna v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2016-UNAT-687, para. 20.

⁵ Article 2(1)(d) of the Appeals Tribunal Statute; *Nadeau v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-733, para. 31.

36. Even if the UNRWA DT, by relying on the testimony of the School Principal who stated that in late November 2016 he had sent Mr. Nimer's written request for SLWOP to the H/ED, the UNRWA DT had committed an error of fact, this would not have resulted in a manifestly unreasonable decision as the UNRWA DT's conclusion that no administrative decision had been taken on the issue of SLWOP is still correct. Both witnesses testified to this effect. The H/ED, in her testimony, pointed out that for a request for SLWOP, certain rules and procedures had to be followed, and that she had called the School Principal and told him that Mr. Nimer "had to come and sign these forms or to send someone authorised in order to do that". The School Principal confirmed that the H/ED had called and told him that Mr. Nimer had "to report to the education department and sign the relevant forms". The School Principal expressly denied Mr. Nimer's submission in his application to the UNRWA DT that the School Principal had informed him on 8 December 2016 of the Agency's decision to deny SLWOP. In his testimony, the School Principal made it clear that he "only reported [the matter] to [Mr. Nimer's] father" and "told him that Alaa [(Mr. Nimer)] had to attend and to appear before the area (...) education office-department, in order to sign the forms or to send someone authorised to do that on his behalf".

37. It becomes clear from these testimonies that the 27 November 2016 letter, whether or not it was received by the H/ED, did not fulfill the requirements for a request for SLWOP and hence did not enable the Agency to take a decision on this matter. Apart from not having used and signed special forms, Mr. Nimer's request for SLWOP was defective in that it did not contain any substantial explanation as to the reasons why SLWOP should be granted. The relevant UNRWA provision on the procedure for requesting SLWOP reads as follows: "Applications for special leave must be accompanied by a written explanation of the circumstances giving rise to the request and, where necessary, must be supported by documentary evidence."⁶

38. The 27 November 2016 letter does not contain the required written explanation of the circumstances giving rise to the request for SLWOP. Mr. Nimer only stated that he had "to travel abroad for the medical treatment of (his) wife". Neither did he give any information about the medical situation of his wife nor did he state why it was necessary for him to go abroad and where he was going.

⁶ Section 3.2 of UNRWA Personnel Directive No. A/5/Rev.7, Part II (Special Leave).

Separation from service

39. UNRWA's regulatory framework reads as follows:

UNRWA Area Staff Rule 109.4 on abandonment of posts (as of 1 May 2015)

1. Where a staff member voluntarily absents himself/herself from duty and such absence neither has been authorised nor is subsequently authorised in accordance with these rules, then such staff member may be separated from Agency service by reason of abandonment of post as provided hereunder.
2. Where a staff member has absented himself/herself in the manner described in paragraph 1 above for three or more consecutive working days, the Commissioner-General may send to such staff member a letter informing him/her that unless, by a specified date (determined at the Commissioner-General's discretion), he/she reports for duty or submits a written explanation of his/her absence which is acceptable to the Commissioner-General, he/she shall be deemed to have been separated from Agency service by reason of abandonment of post under the provisions of this rule.
3. In accordance with the provisions of paragraph 2 above, a staff member who fails to report for duty or to submit an acceptable written explanation by the date specified in the letter, shall unless for exceptional reasons the Commissioner-General decides otherwise, be separated from Agency service under this rule, with effect from 2400 hours (local time) on the day immediately preceding the first day of his/her unauthorized absence.

40. The OiC UNRWA Affairs informed Mr. Nimer by letter dated 11 January 2017 that unless he returned to duty no later than 31 January 2017 and/or submitted a written explanation of his absence acceptable to the Agency, he would be separated from the Agency's services on grounds of abandonment of post. The UNRWA DT committed an error of law and fact, resulting in a manifestly unreasonable decision, in stating that Mr. Nimer had failed to provide by the deadline of 31 January 2017, an explanation to UNRWA about his unauthorised absence. We find that Mr. Nimer rendered such a written explanation in his 29 January 2017 request for decision review.

41. The 29 January 2017 request for decision review can be regarded as a written explanation within the meaning of UNRWA Area Staff Rule 109.4(2) and (3) and as required by the 11 January 2017 letter since, in this document, Mr. Nimer explained why he left his post and why he should not have been separated from service for abandonment of post. Although Mr. Nimer had not received the 11 January 2017 letter when he wrote the 29 January 2017 document, and used the form for "Request for Decision Review", it would be too formalistic not to accept the

29 January 2017 letter as a written explanation under UNRWA Area Staff Rule 109.4(2) and (3) and in response to the 11 January 2017 letter. As long as the staff member, within the time limit specified, submits a written explanation of his or her absence to the Agency, the onus is on the Agency to lay its eyes on it and decide whether the explanation is acceptable or not.

42. The 29 January 2017 request for decision review was submitted before or on 31 January 2017 and hence within the time limit specified in the 11 January 2017 letter. In his appeal, Mr. Nimer stated that he submitted his review request before 31 January 2017, and, among others, to the very person who issued the 11 January letter, that is the OiC. The Commissioner-General did not question this submission in his answer to the appeal but merely clarified “that the issue whether the Appellant submitted a timely decision review request did not form part of the impugned judgment and is therefore irrelevant for purposes of the instant appeal”. At no time has the Commissioner-General alleged that the Agency did not receive Mr. Nimer’s decision review request on or before 31 January 2017. Mr. Nimer’s submission is strongly supported by his 5 February 2017 letter to the OiC where he submits that on 31 January 2017, he filed a request for decision review to the Deputy Commissioner-General, contesting the decision not to approve his leave request as well as the decision to separate him from service on grounds of abandonment of post, and, at the same time, sent this request by e-mail to the OiC. The Respondent, in his reply to Mr. Nimer’s application, had stated that “on 29 January 2016 [(correct: 2017)] the Applicant submitted a request for decision review stating that the Agency had denied his request for SLWOP”.

43. Under the circumstances, the Agency’s decision to separate Mr. Nimer from service for abandonment of post is not reasonable and thus unlawful. The Agency, after having received Mr. Nimer’s 29 January 2017 request for decision review, should have examined whether the request provided an acceptable explanation for his absence. Therefore, we order rescission of this decision, and, as it concerns termination, set an amount of compensation that the Commissioner-General may elect as an alternative to the rescission of the contested administrative decision pursuant to Article 9(1)(a) of the Appeals Tribunal Statute.

Award of compensation for moral harm

44. By dismissing his application in its entirety, the UNRWA DT (implicitly) dismissed Mr. Nimer’s application for compensation for moral harm. There was no need for the UNRWA DT to provide any further reasoning for this decision because it directly followed

from its finding of lawfulness of the contested administrative decision and its dismissal of Mr. Nimer's application. As we have stated before, "compensation cannot be awarded when no illegality has been established; it cannot be granted when there is no breach of the staff member's rights or administrative wrongdoing in need of repair".⁷

45. However, having overturned the UNRWA DT's finding that the decision to separate Mr. Nimer from service was lawful, we must now decide whether Mr. Nimer is entitled to compensation.

46. In this regard, Article 9(1)(b) of the Statute of the Appeals Tribunal provides:

1. The Appeals Tribunal may only order one or both of the following:

(...)

(b) Compensation for harm, supported by evidence, which shall normally not exceed the equivalent of two years' net base salary of the applicant. The Appeals Tribunal may, however, in exceptional cases order the payment of a higher compensation for harm, supported by evidence, and shall provide the reasons for that decision.

47. The Appeals Tribunal may only award compensation for harm in cases where the staff member has presented evidence other than his own testimony that he or she suffered moral injury due to the contested administrative decision.⁸ Mr. Nimer did not present any evidence showing that he suffered mental distress, anxiety or other moral injury. Consequently, there can be no award of compensation in this respect.

⁷ *Kawamleh v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-818, citing *Kucherov v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-669, para. 33, in turn citing *Wishah v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-537, para. 40, and citations therein.

⁸ *Langué v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-858, paras. 17-20, citing *Kallon v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-742, Concurring Opinion of Judge Knierim, para. 2.

Judgment

48. The appeal is partly upheld and Judgment No. UNRWA/DT/2018/014 is hereby modified.

49. The decision to separate Mr. Nimer from service for abandonment of post is rescinded. The Commissioner-General may elect to pay in-lieu compensation in the amount of six months' net base salary.

50. In all other respects, the appeal is dismissed and the UNRWA DT Judgment is affirmed.

Original and Authoritative Version: English

Dated this 26th day of October 2018 in New York, United States.

(Signed)

Judge Knierim, Presiding

(Signed)

Judge Murphy

(Signed)

Judge Lussick

Entered in the Register on this 20th day of December 2018 in New York, United States.

(Signed)

Weicheng Lin, Registrar