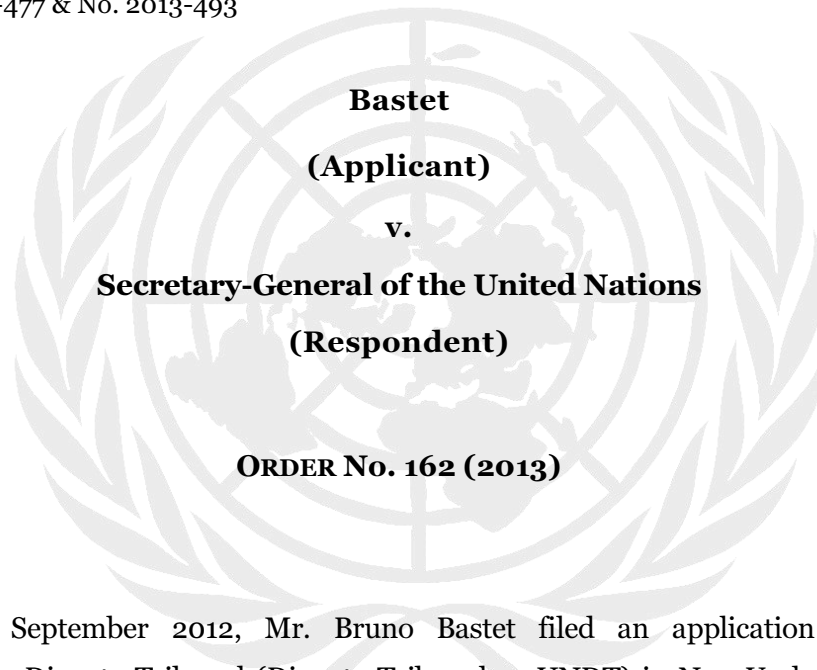




UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Cases No. 2013-477 & No. 2013-493



Bastet

(Applicant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 162 (2013)

1. On 3 September 2012, Mr. Bruno Bastet filed an application with the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in New York, contesting the Secretary-General's decision to dismiss him from service for claiming and receiving a rental subsidy from the Organization, to which he was not entitled. Mr. Bastet's case was subsequently transferred to the Dispute Tribunal in Geneva (Order No. 96 (NY/2013) of 12 April 2013).
2. By Order No. 58 (GVA/2013) of 16 May 2013, the UNDT in Geneva rejected motions by Mr. Bastet requesting production of documents by the Secretary-General, a stay of proceedings as well as travel costs for him and his counsel. The UNDT also ruled that, at that time, no witnesses would be convoked to the oral hearing and directed that Mr. Bastet produce certain documentary evidence.
3. Mr. Bastet appealed both orders to the United Nations Appeals Tribunal (Appeals Tribunal) on 31 May 2013 and 6 June 2013, respectively. By Order No. 80 (GVA/2013) of 14 June 2013, the UNDT in Geneva, inter alia, denied Mr. Bastet's request for a stay of proceedings pending said appeals.

4. On 4 September 2013, the UNDT issued Order No. 154 (GVA/2013), convoking the parties to a hearing which was scheduled for 16 October 2013. The hearing was subsequently postponed due to the unavailability of Mr. Bastet's counsel.

5. On 20 September 2013, Mr. Bastet filed a "Motion for Interim Relief", requesting that the Appeals Tribunal suspend the proceedings before the UNDT pending his appeals against Orders No. 58 (GVA/2013) and No. 96 (NY/2013).

6. The Secretary-General filed his Observations on the Motion on 25 October 2013. The Secretary-General argues that the Motion is, in fact, an appeal against Order No. 80 (GVA/2013) and, as such, the 30-day time limit for interlocutory appeals applies. Mr. Bastet having filed his appeal on 20 September 2013, 98 days after the applicable time limit had lapsed, his appeal would therefore be time-barred and not receivable.

7. Article 9(4) of the Statute provides that "[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal".

8. The Appeals Tribunal has previously held that it

[...] may make an interim order for temporary relief, pending the outcome of the appeal, on two conditions:

i) It must be satisfied on a balance of probabilities that there is real likelihood of irreparable harm which can be prevented if temporary relief is granted; and

ii) The temporary relief granted is consistent with the judgment of the Dispute Tribunal.¹

9. In the present case, Mr. Bastet does not seek an interim measure for temporary relief which is consistent with the Order of the Dispute Tribunal. In fact, he seeks the exact opposite, namely a stay of proceedings which the UNDT did not grant. Accordingly, one of the two cumulative conditions under Article 9(4) of the Statute is not fulfilled.

¹ *Koumoin v. Secretary-General of the United Nations*, Order No. 3 (2010).

10. For the foregoing reason, Mr. Bastet's request for interim injunctive relief is denied.

Original and Authoritative Version: English

Dated this 7th day of November 2013 in Dublin, Ireland.

(Signed)
Judge Mary Faherty,
President

Entered in the Register on this 8th day of November 2013 in New York, United States.

(Signed)
Weicheng Lin, Registrar