



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2012-418

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

ORDER No. 203 (2014)

1. Ms. Nadia Ali Diab joined the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency) in 1993. At the material time, she was a Midwife working at the Shatila Camp Health Center. On 30 May 2008, the Shatila Camp Health Center was sprayed with insecticide. A week later, Ms. Diab was admitted to hospital for pneumonia and severe bronchospasm due to inhalation of chemicals. However, the UNRWA Administration subsequently determined that adequate precautions had been taken before the spraying of the insecticide and that Ms. Diab's health problems were not related to the spraying. It therefore rejected Ms. Diab's request that the Agency bear the cost of her treatment. Ms. Diab appealed.

2. On 1 July 2012, the Dispute Tribunal of UNRWA issued Judgment No. UNRWA/DT/2012/030, in the case of *Diab v. Commissioner-General of UNRWA*, in which it dismissed Ms. Diab's application as time-barred and therefore not receivable.

3. On 19 October 2012, the Registry of the United Nations Appeals Tribunal (Appeals Tribunal) received an appeal filed by Ms. Diab against Judgment No. UNRWA/DT/2012/030. The appeal, however, was not accompanied by an appeal brief.

4. In an e-mail dated 29 November 2012, the Registry advised Ms. Diab's Counsel of the need to *inter alia* file an appeal brief to explain the legal basis of Ms. Diab's appeal as set out in Article 2(1) of the Statute of the Appeals Tribunal, within five working days.

5. Seven and a half months later, on 15 July 2013, the Registry wrote to Ms. Diab's Counsel advising that failing receipt, by 1 August 2013, of an explanation justifying a waiver of the time limit to file her appeal brief, Ms. Diab's case would be closed.

6. On 1 August 2013, Ms. Diab filed an appeal brief with the Registry. Ms. Diab maintained that the UNRWA Dispute Tribunal erred in denying her request to call the sanitation laborer as a witness to corroborate her argument that she was at the Shatila Camp Health Center on the day of the spraying of the insecticide. On the time bar issue, Ms. Diab stated that it was "un-acceptable" and "appalling" for the UNRWA Dispute Tribunal to dismiss her appeal on the time bar basis, when the Agency was allowed to "hide behind administrative delay".

7. In response to the Registry's request for an explanation of the delay in filing an appeal brief, Ms. Diab's Counsel stated, on 11 September 2013, that neither he nor his client had been aware of the requirement for an appeal brief as part of an appeal, but that "[o]nce you emailed us on 15 July with a deadline to do so by 1st August we complied". On 8 October 2013, Ms. Diab filed a motion for "[w]aiver of time limits on the grounds of exceptional circumstances"

8. Under Article 7(3) of the Appeals Tribunal Statute, "[t]he Appeals Tribunal may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases". Considering the totality of the circumstances of the present case, I decide to accept the appeal brief as filed by Ms. Diab on 1 August 2013 in the interests of justice.

IT IS HEREBY ORDERED that Ms. Diab's motion for waiver of time limits on the grounds of exceptional circumstances IS GRANTED. The Registry is instructed to include the appeal brief that Ms. Diab filed on 1 August 2013 as part of her appeal and forward her appeal to the Agency for an answer within the applicable time limit.

Original and Authoritative Version: English
Dated this 28th day of October 2014
in Buenos Aires, Argentina.

(Signed)
Judge Inés Weinberg de Roca,

Entered in the Register on this 28th day of
October 2014 in New York, United States.

(Signed)
Weicheng Lin, Registrar