



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2014-678

**Lee
(Applicant)**

v.

**Secretary-General of the United Nations
(Respondent)**

ORDER No. 208 (2014)

1. On 30 September 2014, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) issued Judgment No. UNDT/2014/121, in the case of *Lee v. Secretary-General of the United Nations*, dismissing Ms. Lee's application as not receivable *ratione materiae*.
2. On 24 November 2014, Ms. Lee filed a request for suspension, waiver or extension of time limit to appeal the UNDT Judgment. In support of her request, Ms. Lee states:

I have been working on this case over the past year on nights and weekends doing research and preparing responses. The accumulation of stress and the lack of sleep over the decision and this case ... have led to a recent series of anxiety attacks... I am also of the understanding that it is difficult to file additional pleadings after the initial submission and given that my case involved four separate submissions to the management evaluation and several contested decisions, I want to be able to ensure that the appeals brief is comprehensive and properly prepared... Furthermore, since judgment UNDT/2013/147 was cited as the basis for the ruling against one of the contested decisions, and considering that UNDT/2013/147 has been appealed and that a full judgment is expected shortly, I request the opportunity to review the ruling of the Appeals Tribunal before responding on this issue.

3. Ms. Lee then requested an extension of time “until 28 February 2015 or until after issuance of the Appeals Tribunal’s Judgment on UNDT/2013/147[,]” explaining that she “will ... be on a two week vacation with [her] daughter over the Christmas and New Year holidays.”

4. Article 7(1)(c) of the Appeals Tribunal Statute (Statute) provides that an appeal must be filed “within 60 calendar days of the receipt of the judgement of the Dispute Tribunal or, where the Appeals Tribunal has decided to waive or suspend that deadline in accordance with paragraph 3 of the present article, within the period specified by the Appeals Tribunal”. Paragraph 3 of Article 7 of the Statute provides that “[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”. Article 30 of the Rules allows this Tribunal to shorten or extend a time limit “when the interests of justice so require”.

5. In the present case, Ms. Lee filed her request for an extension of time to file an appeal on 24 November 2014 – five days before the expiration of the 60 days-appeals period. She raises several claims to support her request; however, none shows “exceptional circumstances” within the meaning of Article 7(3) of the Statute. First, Ms. Lee’s claims that she is suffering from “stress,” “lack of sleep” and “anxiety” are complaints common to many staff members whose employment may be at risk. Generally, these complaints do not constitute “exceptional circumstances”; otherwise, the statutory time limit for filing an appeal would be extended in almost every case. Second, Ms. Lee’s claim that she needs time to review the “full judgment” of the Appeals Tribunal’s review of UNDT/2013/147 is disingenuous. The Appeals Tribunal issued its oral pronouncement on the appeal of UNDT/2013/147¹ on 17 October 2014 -- more than a month before Ms. Lee filed her request for an extension of time. Since the sole issue on the appeal of UNDT/2013/147 was the correctness of the UNDT’s grant of summary judgment dismissing Ms. Lee’s application as not receivable *ratione materiae*, and the Appeals Tribunal *affirmed* the UNDT grant of summary judgment, the basis for the Appeals Tribunal’s ruling was clear at the time of the oral pronouncement. Third, a two week vacation does not constitute “exceptional circumstances.” In short, Ms. Lee

¹ See *Lee v. Secretary-General of the United Nations*, 2014-UNAT-481.

has not shown the existence of any “exceptional circumstances” beyond her control warranting an extension of the time limits under Article 7 of the Statute.

6. For the foregoing reasons, Ms. Lee’s request for an extension of time to file an appeal should be denied. However, since the 60 days-appeals period expired while Ms. Lee’s request was under consideration, and that period has now lapsed, she may be permitted to file an appeal, provided it is filed no later than 9 January 2015.²

IT IS HEREBY ORDERED that Ms. Lee’s request for a suspension, waiver or extension of the time limit to file an appeal **IS DENIED**; however, she may file an appeal no later than 9 January 2015.

Original and Authoritative Version: English

Dated this 26th day of December 2014
in California, United States.

(Signed)
Judge Rosalyn Chapman

Entered in the Register on this 26th day of
December 2014 in New York, United States.

(Signed)
Weicheng Lin, Registrar

² Bastet Order No. 179 (2014).