



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2018-1146

Abu-Malluh *et al.*
(Respondent/Applicant)

v.

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

Order No. 307 (2018)

1. On 29 November 2017, the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency, respectively) issued Judgment No. UNRWA/DT/2017/041 in *Abu Malluh et al. v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, which was transmitted to the parties on the same day. The time limit for appealing the Judgment to the United Nations Appeals Tribunal (Appeals Tribunal) in terms of Article 7(1)(c) of the Appeals Tribunal Statute (Statute) is 60 calendar days within receipt of the judgment and the appeal therefore had to be filed by 29 January 2018.

2. On 31 January 2018, the Commissioner-General filed a motion with the Appeals Tribunal requesting a waiver of time limit and for leave to file an appeal against Judgment No. UNRWA/DT/2017/041. In support of his request, the Commissioner-General explains that it has not been possible to finalize and file the appeal timeously because since 17 January 2018 there has been strike action at the UNRWA West Bank Field Office, Jerusalem (where the Department of Legal Affairs is based). The strike has prevented staff from gaining access to their offices, with the consequence that counsel for the Commissioner-General has not been able to access the relevant documents and facilities needed to prepare and file the appeal by the due date.

Access to the Field Offices was only restored on 25 January 2018 after 4:30 pm. The Commissioner-General requests that he be granted seven days from the date of the issuance of this Order to file his appeal.

3. Article 7(1)(c) of the 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”. Article 7(3) 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”.¹

4. Although the strike action ended on 25 January 2018 and the appeal was due on 29 January 2018, the strike constituted an exceptional supervening event, akin to *force majeure*, which rendered it temporarily impossible for the Commissioner-General to file his appeal timeously. Fairness requires that the Commissioner-General be given a reasonable opportunity to attend to matters which were delayed by the strike. The circumstances are exceptional within the meaning of Article 7(3) of the Statute and it is therefore in the interest of justice to grant the motion of the Commissioner-General.

5. For the foregoing reasons, I grant the Commissioner-General’s motion and order that, under Article 7(3) of the Statute, he shall be entitled to file his appeal within seven days of the date of this Order.

IT IS HEREBY ORDERED that the Commissioner-General’s appeal, if any, should be submitted no later than 12 February 2018.

Original and Authoritative Version: English
Dated 5th day of February 2018
in Cape Town, South Africa.

(Signed)
Judge John Murphy,
President

Entered in the Register on this 5th day of
February 2018 in New York, United States.

(Signed)
Weicheng Lin, Registrar

¹ See also Article 7(2) of the Appeals Tribunal Rules of Procedure.