



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2024-1906

Nadim El-Haj

(Respondent)

v.

Commissioner-General

of the United Nations Relief and Works Agency for

Palestine Refugees in the Near East

(Appellant)

ORDER No. 593 (2025)

1. On 31 December 2023, the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT and UNRWA or Agency, respectively) issued Judgment No. UNRWA/DT/2023/053 in the case of *El-Haj v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East* (impugned Judgment).
2. In the impugned Judgment, the UNRWA DT granted Mr. El-Haj's application in which he challenged the imposition of the disciplinary measure of a fine equivalent to two months of salary for the misconduct of a breach of neutrality (contested decision).
3. On 29 February 2024, the Commissioner-General filed an appeal of the rescission of the contested fine in the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal). The appeal was assigned Case No. 2024-1906.
4. The Appeals Tribunal Registry (Registry) served Mr. El-Haj with the appeal, but Mr. El-Haj did not file an answer.

5. On 21 November 2024, the Registry contacted the legal representative of the Commissioner-General to confirm the e-mail address of Mr. El-Haj, copying Mr. El-Haj as well.

6. On 25 November 2024, Mr. El-Haj responded to the Registry's e-mail and confirmed that indeed he had received a copy of the Commissioner-General's appeal on 4 March 2024. Mr. El-Haj stated that UNRWA had fully implemented the impugned Judgment by reimbursing him the two-months' fine in January 2024. Mr. El-Haj wondered how UNRWA in Lebanon had implemented the impugned Judgment, but at the same time, the legal representative of the Commissioner-General had appealed the impugned Judgment. He stated that this was "a very clear contradiction". This e-mail was copied to the Commissioner-General.

7. On 11 February 2025, the Commissioner-General filed a Motion for additional pleadings (Motion) in Case No. 2024-1906.

8. In the Motion, the Commissioner-General stated that the Agency learned inadvertently, through the above-mentioned e-mail sent by Mr. El-Haj to the Registry, that the Agency had already reimbursed him for the contested fine.

9. The Commissioner-General recognizes that only in "exceptional circumstances" will the Appeals Tribunal grant a motion for additional pleadings. The Commissioner-General argues that the requirement of exceptional circumstances is met here in order to provide the Appeals Tribunal with "relevant facts arising following the issuance of the Judgment". Specifically, that the Commissioner-General has reimposed the contested fine on Mr. El-Haj and is deducting the fine in eight installments beginning with his February 2025 salary.

10. The Commissioner-General further submits that in view of the exceptional circumstances, he would not object to the Appeals Tribunal extending the deadline for Mr. El-Haj to file an answer to the appeal.

11. On 12 February 2025, the Registry transmitted the Motion to Mr. El-Haj and requested a response to the Motion and a response to the appeal, in a submission not to exceed 10 pages.

12. Mr. El-Haj objects to the Motion, arguing that it is filed in bad faith. Mr. El-Haj points out that there is no evidence that the reimbursement of the fine was a mistake. He was only told on 24 January 2025, by e-mail from the Department of Human Resources, that the reimbursement from a year earlier was a “mistake”. Mr. El-Haj notes that this was a full two months after his e-mail exchange with the Registry.

13. Mr. El-Haj submits that the Agency is attempting to deprive him of the fruits of his victory in the impugned Judgment, and that he should not be made to suffer the consequences of the Agency’s mistake, if it was one.

14. Mr. El-Haj points out that the Motion was filed sixteen days after he received the notification from the Department of Human Resources. He submits that these circumstances strongly suggest that the Department of Human Resources was instructed to send him the e-mail of 24 January 2025 in order to provide the Commissioner-General a basis to file the Motion. Mr. El-Haj contends that the Commissioner-General comes before the Appeals Tribunal with unclean hands and the Motion should be denied on that basis.

15. Mr. El-Haj requests that the Appeals Tribunal deny the Motion because the Commissioner-General has failed to demonstrate the existence of exceptional circumstances or that it is in the interests of justice and efficient and expeditious resolution of the proceedings.

Considerations

16. Article 2(5) of the Appeals Tribunal’s Statute reads: “In exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings.”

17. Under Section II.A.3 of UNAT Practice Direction No. 1, an appellant may make “[a] motion requesting the permission of the Appeals Tribunal to file a pleading after the answer to the appeal” and the Appeals Tribunal may grant such a motion “if there are exceptional circumstances justifying the motion”.

18. In *Roberts v. Secretary-General of the United Nations*, Order No. 233 (2015), the Appeals Tribunal was faced with similar circumstances. In that case, the Secretary-General appealed Judgment No. UNDT/2015/020, which had awarded Mr. Roberts a sum of USD 10,000 in moral damages. After filing an appeal of the latter UNDT Judgment, the Secretary-General discovered that the Organization had already paid the USD 10,000 to Mr. Roberts. The Secretary-General filed a motion for leave to file additional pleadings in order to explain that this payment was erroneous and did not constitute the Secretary-General's acceptance of the UNDT Judgment.

19. The Appeals Tribunal was satisfied that the Secretary-General had demonstrated exceptional circumstances for filing an additional submission, in order to respond to new facts and evidence that was not in the UNDT record before the Appeals Tribunal.¹

20. Based on this precedent, the Appeals Tribunal grants the Commissioner-General's Motion and the additional submission, as well as the comments on the appeal from Mr. El-Haj.

IT IS HEREBY ORDERED that the Commissioner-General's Motion for Additional Pleadings is **GRANTED** and Mr. El-Haj's comments on the appeal are accepted into the record.

Original and Authoritative Version: English

Decision dated this 28th day of February 2025
in Beijing, China.

(Signed)
Judge Gao Xiaoli,
Presiding Judge

Order published and entered in the Register on this
28th day of February 2025 in New York, United States.

(Signed)
Juliet E. Johnson,
Registrar

¹ Order No. 233 (2015), para. 4.