Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

O'DONNELL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Jérôme Blanchard, UNOG

Introduction

1. By application filed on 30 July 2013 and completed on 2 August 2013, the Applicant, a former staff member of the Office for the Coordination of Humanitarian Affairs ("OCHA"), challenges the decision to pay his repatriation grant at the single rate rather than at the dependency rate following his separation from OCHA, resulting—as per his claims—from two decisions, that he also seems to contest, namely (i) not to rescind his period of Special Leave Without Pay ("SLWOP"), and (ii) to discontinue the dependency allowance for his daughter. Finally, the Applicant lists as remedies, *inter alia*, the payment of two days of outstanding annual leave, and the payment of his repatriation air ticket, thus seeking judicial review of the respective administrative decisions.

Facts

2. By email of 31 January 2007, while he was working at OCHA as Chief, Administrative Office ("AO"), Geneva, at the P-5 level, the Applicant informed the Deputy Director, OCHA, of his forthcoming move to New York, for family reasons.

3. By email of 5 March 2007, addressed to the Human Resources Section, AO, OCHA, the Applicant confirmed his intention to leave his post in Geneva. By further email of 29 March 2007, he asked for a four-month SLWOP as of his departure from OCHA—scheduled on 10 May 2007—in order to be considered as an internal candidate for other vacancies within the Organization.

4. As stated by the Applicant, he "finished" his work with OCHA on 18 May 2007 and travelled to New York at his "own expense".

5. On 20 July 2007, the Applicant's wife, also a staff member of the UN, posted at headquarters in New York, transmitted to the Office of Human Resources Management ("OHRM") in the UN Secretariat in New York, the couple's marriage certificate of the same day.

6. On 30 July 2007, the Applicant also submitted to the Human Resources Management Service ("HRMS"), United Nations Office at Geneva ("UNOG"), the couple's marriage certificate of 20 July 2007.

7. By email of 2 August 2007, OHRM informed the Applicant's wife that it would inquire about her husband's "current appointment", since if he had one with the UN, OHRM would have to "switch [the Applicant's wife's] salary and post adjustment to single rate instead of dependent rate, since only one of [them] [was] entitled to payment of the dependent rate and it is the one with the higher salary level". OHRM noted that in such case, the Applicant's wife would "instead receive a dependency allowance for [her] child".

8. By email of 28 August 2007 sent to OHRM, the Applicant's wife explained that as from the date of her marriage on 20 July 2007, both her children "would be with [the Applicant]", and from "[the Applicant's] date of SLWOP", at the end of August, "both would revert to [her]". She also indicated that she had spoken "to Medical Insurance on 17 August and they informed [her] that they need[ed] [her] Personnel Action ["PA"] to sort out their part", so she requested that a PA be initiated "to switch both children to [the Applicant] from 20 July and then back to [her] from his date of SLWOP".

9. By email of the same day, OHRM replied to the Applicant's wife as follows:

> The action was already taken to switch your salary to single rate, since you have not explained the situation clearly before.
>
> (…)
>
> After we receive the PA that places your husband on SLWOP, we can take the appropriate action to establish both children as your dependants.

10. As of 29 August 2007, the Applicant was placed on SLWOP.

11. On 24 September 2007, the Applicant's wife wrote the following email to OHRM, under the subject "Medical insurance for spouse and child":

> To date, UNOG has yet to finalise the administrative formalities of my husband's SLWOP. But nonetheless, my husband and other child ([C.]) cannot remain uninsured. …
>
> According to UN Medical Service, they can only be enrolled under me if they are part of my household in IMIS. Therefore, do you think this action could be done separately from of the UNOG actions since they seem to be taking some time?

12. By email sent in reply on the same day, OHRM informed the Applicant's wife that her husband had been "established as [her] household member", together with her child C., as reflected in a printout from IMIS.

13. In an email of 28 September 2007, OHRM informed HRMS/UNOG that the Applicant's wife "want[ed] to claim their common daughter, C[.], as her dependent, because the Applicant was approved to go on SLWOP effective 29 August 2007", and asked that a corresponding PA be initiated to discontinue the Applicant's dependency allowance for his daughter. This was done on 2 October 2007, when a PA was issued to discontinue the dependency allowance in respect of the Applicant's daughter, effective 29 August 2007.

14. By email of 3 December 2007, the Applicant requested a further extension of his SLWOP for four months.

15. On 25 March 2008, the Applicant's SLWOP was extended until 25 September 2008, date on which he was separated from OCHA. At the date of his separation from service, he had no registered dependents.

16. By email of 26 October 2008, the Applicant informed the Chief, Human Resources Section, AO, OCHA, that he had received an offer for a P-5 post at the International Civil Aviation Organization in Montreal ("ICAO"), hence he was asking for an interagency transfer. He wrote: "I suppose it simply means that my SLWOP will be extended for a few weeks or that I will be reinstated whichever is easier."

17. As of 3 November 2008, the Applicant took up a temporary P-5 post with ICAO, and by email of 3 December 2008, he asked the Chief, Human Resources Section, AO, OCHA, to cancel the whole period of SLWOP he had benefitted

from, and to proceed with his separation from OCHA as of 7 September 2007, which he contended was the date on which he had exhausted his accrued annual leave before the start of his SLWOP. He noted that this would allow him to "start afresh and be paid the repatriation grant from UN at the dependency rate since at the time of separation [he] still had [his] daughter [C.] as [his] dependent".

18. By email of 31 December 2008, the Applicant's wife inquired with OHRM about the "adjustment going back from about a year" which she noticed in her "September Salary", which she believed related to the fact that the child C. had been "transferred to [her] from the date [the Applicant] left OCHA Geneva". She further asked that her child C. be "remove[d]" as her dependent effective 3 November 2008, since her husband, the Applicant, "took up a temporary P-5 post with ICAO in Montreal" on that date and was "the higher earner". By email sent in reply on 2 January 2009, the Applicant's wife was told that the action requested would be taken, and that "the reason UNOG k[ept] quoting 29/8/2007 [was] because [her] husband was on [SLWOP] effective that date", and that "[h]e was not entitled to receive dependency benefit for [her] daughter [C.]".

19. On 14 July 2009, the Applicant requested HRMS, UNOG, to process his separation from the United Nations and to pay him his repatriation grant, as this payment had not been made yet. He sent subsequent reminders on 5 October 2009, 10 January 2010, and 21 January 2010.

20. The PA processing the Applicant's separation from the Organization on 25 September 2008 was approved on 28 January 2010; at the time he had no dependents listed. On the same day, the Officer-in-Charge, Human Resources Unit, OCHA, emailed the Applicant to inform him that his request to cancel his SLWOP was not granted, since he had been kept on SLWOP in order to be able to be considered as an internal candidate for positions to which he wished to apply. By email of 1 February 2010, the Applicant expressed his disagreement with this decision; this notwithstanding, he was informed by email of 16 February 2010 that the decision was maintained, to which he objected.

21. By email of 17 March 2010, the Chief, AO, OCHA, agreed to review the Applicant's case and asked him to provide "a summary overview of the issues", which the latter did on 22 March 2010.

22. After a series of reminders, the Officer-in-Charge, Human Resources Unit, OCHA, informed the Applicant on 10 September 2010 that for OCHA "the case [was] considered to be resolved", based on the previous emails of 28 January 2010 and 16 February 2010. He agreed, however, to give the file to a new staff member who would review the Applicant's request a last time.

23. The Applicant replied on 13 September 2010 that he would "take it up via another route" and hence requested that OCHA "proceed to pay the Repatriation Grant at [the Officer-in-Charge's, Human Resources Unit, OCHA] chosen separation date", and to ensure that the Applicant had "dependency status on whatever separation date [the Officer-in-Charge, Human Resources Unit, OCHA] establish[es], since that never changed at any time and [he] never requested or was aware of any change in [his] status", and that his "last day of AL [be] corrected from 5 to 7 September 2007 … and that [his] final salary [be] paid".

24. On 6 December 2010, as he had not received any reply to his request, the Applicant sent a reminder.

25. An Applicant's payslip for the pay period of December 2010, which the Applicant received apparently in January or February 2011 (see para. 27 below), included the following indications in the column "retroactive":

Repatriation held in trust Gross Salary:	USD40,414.89
Repatriation held in trust Staff Assessment:	USD-12,709.40
Repatriation Grant Accrual:	USD98.78

26. According to the Respondent, during the month of December 2010 there was an attempt to pay the Applicant's last pay to his UBS account; however, the transfer was not accepted by the bank, and the Payroll Unit, UNOG, informed the Applicant thereof on 22 September 2011 (see para 33 below).

27. By email of 10 February 2011 addressed to the Payroll Unit, the Applicant inquired regarding the details of his payslip for December 2010 he had received in his mail. In a reply which the Applicant received the following day, the Payroll Unit indicated that the payslip was "the detail of [his] Separation payment form OCHA", provided explanations pertaining to the period concerned ("29 August to 4 September 2007"), and indicated that the payment included "the travel days" he was due and the repatriation grant, which was for the time being "held in escrow", pending his "proof of relocation".

28. The Applicant replied to the above explanations on 22 February 2011 and raised some issues (namely number of days added, medical insurance contribution, deduction for staff assessment, and annual leave). By email of the same day from the Payroll Unit, he was reminded that his "child [C.] was discontinued effective 29/08/2007". He was further provided with an "excel file with [details] of the deductions/payments made for August 2007, which might help [him] in better understanding the calculation". The attached excel file, under the title "Earning and Deduction Inquiry Report", indicated the "Difference Dependent/Single" for each of the amounts of Gross Salary, Medical Insurance, UN Medical Insurance Subsidy, Non-removal element of mobility and hardship allowance, Post adjustment, Staff member's pension contribution, Organization's pension contribution, and Staff assessment.

29. The Applicant immediately followed up on the issue by email addressed to the Officer-in-Charge, Human Resources Unit, OCHA, indicating that there were still outstanding matters regarding his payment that needed to be solved, as he did not receive any reply to his previous emails of 13 September and 6 December 2010. He described these issues as being his last day of leave, his dependency status, and "the issue that there was no contract for the period of SLWOP in question".

30. By email of the same day, i.e. on 22 February 2011, the Officer-in-Charge, Human Resources Unit, OCHA, replied the following:

> I know we have looked at your requests on several occasions, but that we considered these closed. I also know that you insisted to review, but we had done that already.
>
> I do see however that you are now bringing up new issues with finance, which I am un-aware of.
>
> I will look at these issues in due time. This is important, but not urgent.
>
> I am copying herewith some relevant information on Repatriation Grant:
>
> 46. Separation Entitlements (resignation and end of contract)
>
> a. Accrual of Annual Leave
>
> If upon separation from the staff member has annual leave standing to his/her credit, this is paid directly to the staff member's account, up to 60 days.
>
> b. Repatriation Grant
>
> On separation from the Organization, a repatriation grant is payable to staff members who have completed 1 year or more of continuous service outside their home country, subject to the submission of evidence of relocation away from the country of the last duty station, and subject to the fulfilment of the other relevant conditions of the Staff Regulations and Staff Rules. The amount of the grant is based on a separate schedule of repatriation grant payments contained in Annex IV to the Staff Regulations.
>
> …

31. The Applicant, replied on the same day by stating that there were no new issues, and that his "final payslip shows that the actions on last day of AL and dependency status were not taken".

32. On 31 July 2011, the Applicant requested from the Officer-in-Charge, Human Resources Unit, OCHA, that action be finally taken on his requests, quoting the terms of his email of 13 September 2010 (para. 22 above).

33. On 22 September 2011, the Payroll Unit, UNOG, informed the Applicant that a payment had been made in December 2010 but had been rejected by his bank; the Applicant was hence asked to provide updated information about his

bank account. The Applicant replied on 16 October 2011 to proceed with the payment to his UBS account.

34. By email of 25 October 2011, stating that he did not receive any response to his questions, the Applicant submitted to the Officer-in-Charge, Human Resources Unit, OCHA, proof of his relocation and reiterated his request to be paid his repatriation grant. He was further asked on 4 November 2011 to re-submit such proof in accordance with the applicable instructions, which he did on 21 November 2011.

35. On 22 December 2011, the repatriation grant was paid to the Applicant's UBS bank account in Geneva.

36. On 21 December 2012, after a number of email inquiries sent since January 2012 because he had no access to information regarding his UBS bank account, the Applicant was informed by the Payroll Unit of the payment of his repatriation grant on 22 December 2011 to his account. A screenshot of an extract of IMIS, showing a payment of USD27,705.49 amounting to CHF25,516.76, was attached to the email. The amount of USD27,705.49 was the difference between USD40,414.89 (Repatriation held in trust Gross salary) and USD12,709.40 (Repatriation held in trust Staff assessment) as indicated on the Applicant's payslip of December 2010.

37. By email of 27 December 2012, the Applicant thanked the Payroll Unit for the information sent to him on 21 December 2012, and asked to be provided with the calculations for the amount received.

38. By email of 10 March 2013, the Applicant again inquired from the Payroll Unit to "tell [him] what it [was] that [he] was paid over a year ago", and requested to be provided with the calculations that made up the amount. On 11 March 2013, the Payroll Unit sent an email to the Applicant with a scanned copy of Annex IV to the Staff Regulations and a scanned copy of his separation PA. The Applicant replied on the same day that he knew the repatriation grant conditions and that he "simply asked to see the calculation to see whether it was paid at the Single or Dependant rate and what other items were included since there were some unpaid

untaken vacation days", and that "now [he] [saw] from the [PA] that there were 2 travel days ([he thought]) which [he] was unaware of"; and that he understood now from the PA he received that he had been paid at the "SINGLE rate which [was] an error". He therefore asked to be provided with the calculations-"how much is days and how much is Repatriation Grant".

39. He received a reply from the Payroll Unit to his request on 11 March 2013, informing him of the following:

> Please find below the information requested for the calculation of your Repatriation Grant entitlement which is based on 52.1 weeks per calendar year.
>
> For the calculation in USD at the P5 step 12 Single rate (16 weeks) as per 2008 salary scale
>
> Gross Salary 131,601 / 52.1 * 16 = 40,414.89
>
> Staff assessment -41,385 / 52.1 * 16 = -12,709.40
>
> For more information concerning Repatriation Grant at Dependency or Single rate, please contact Ms. [H.] of Human Resources.
>
> The 2 Travel days paid are calculated in the same way as Annual Leave days: Gross Salary plus Post Adjustment less Staff Assessment, based on 21.75 working days per month.

40. On 29 and 30 April 2013, the Applicant requested management evaluation of the payment of his repatriation grant at the single rate. He asked for payment of the difference in the dependency rate (USD28,000) and the exchange losses.

41. By memorandum of 12 June 2013, he was informed that the Secretary-General had decided to uphold the decision to pay him the repatriation grant at the single, rather than at the dependency rate.

42. On 30 July 2013, the Applicant filed an incomplete application with the UNDT Geneva Registry under the title "Failure to correct s/m status for repatriation grant". The application was deemed completed on 2 August 2013 and served on the Respondent, who submitted his reply on 29 August 2013.

43. On 9 September 2013, the Applicant requested leave to submit comments on the Respondent's reply; those comments were already attached to the Applicant's motion for leave.

44. By Order No. 147 (GVA/2013) of 3 October 2013, the Tribunal ordered the Respondent to provide additional information relating to the issue of the payments made to the Applicant on 22 December 2011 and 22 December 2012.

45. The Respondent submitted the requested information on 9 and 16 October 2013, and completed it by an addendum on 17 October 2013. In his submission of 9 October 2013, he also requested leave to respond to the Applicant's comments of 9 September 2013.

46. By Order No. 18 (GVA/2014) of 28 January 2014, the Tribunal ordered the Respondent to submit further documents, namely the payslip issued in December 2013 and an excel file with details of the deductions/payments made for August 2007 that had been both sent to the Applicant. It further granted leave to the Respondent to provide observations on the Applicant's comments of 9 September 2013. The Respondent submitted his observations and the requested documents on 10 February 2014, and the Applicant—without having requested leave—filed comments thereon on 11 February 2014.

47. By Order No. 47 (GVA/2014) of 24 March 2014, the Tribunal convoked a hearing that was held on 8 April 2014, during which the Applicant appeared by videoconference, while Counsel for the Respondent was present in the courtroom.

Parties' submissions

48. The Applicant's principal contentions are:

a. He discovered that his repatriation grant was paid at the single rate rather than at the dependency rate only in March 2013, when he was given detailed explanations about the payment he had received; indeed, the calculation of the repatriation grant is complicated and he could not figure it out based only on numbers without further explanations;

b. He had never asked for a change in his dependency status, and the Administration committed an error when they discontinued his dependency status without consulting him first; the email exchange between his wife and a Human Resources Assistant back in August/September 2007 was solely to request that his daughter C. and himself "be covered by [his wife's] Medical Insurance as members of her household", and there "must be a distinction between household members for Medical Insurance and dependants for Dependency benefits"; the "erroneous data in IMIS" that resulted "was never corrected, nor even examined";

c. His SLWOP served no purpose since he was not rehired as initially planned; the grant of his SLWOP was not even in line with the rules since his contract had expired in the meantime;

d. He requests the following:

i. Payment of USD20,780, representing the underpayment in his repatriation grant at the single rather than at the dependency status (16 weeks' salary instead of 28 weeks);

ii. "Exchange loss due to repatriation grant payment delays CHF13,500 at the dependency rate (CHF7,700 normal rate) given that the repatriation grant was paid at the USD/CHF rate at the end of 2011 (USD0.93) instead of the rate at the end of 2008 (USD1.20)";

iii. "Annual leave balance understated by 2 days" and "no repatriation travel ticket paid", however he considers these two issues as "not significant" and he is willing to "forego" them;

iv. Cancellation of his period of SLWOP, in order to be paid the repatriation grant at the dependency rate.

49. The Respondent's principal contentions are:

a. The application is time-barred, as the decision to pay the repatriation grant at the single rate rather than at the dependency rate was implemented

over one and a half years ago, and the Applicant did not request management evaluation within the 60-day deadline;

b. The Applicant submitted proof of his relocation in October 2011, so he should have expected that the payment would be done around November or December 2011; the date of the payment should be considered as the date of the notification of the contested decision, namely December 2011, and as a result, the application is obviously time-barred;

c. The Applicant's failure to realize that he received payment of his repatriation grant on 22 December 2011 is the result of his failure to exercise due diligence, and not the fault of the Administration;

d. Moreover, he did not make a written claim within one year following the date on which he was entitled to a repatriation grant, as prescribed by staff rule 3.16;

e. At the very least the Applicant was absolutely aware that he received a repatriation grant at the single rate when he was informed on 21 December 2012 that the repatriation grant had been paid to him on 22 December 2011, but he still did not file his request for management evaluation within sixty days from that date;

f. As regards the alleged refusal to rescind his SLWOP in January 2010 and the issue of discontinuing his dependency allowance in respect of his daughter, of which he was aware at the very least on 16 February 2010 and of which he was again informed on 22 February 2011, both those decisions are irreceivable *ratione temporis* and *ratione materiae*, as they were not the subject of a request for management evaluation in due time;

g. The Applicant's assertions that his wife did not claim their common daughter as her dependent is contradicted by the evidence submitted, which shows that already in August 2013, she had informed a Human Resources Assistant in New York that from the Applicant's date of SLWOP "both

children would revert to [her]", hence the change of the family status of the Applicant was made at the request of his wife;

h. In case the claim concerning the repatriation grant is deemed receivable, the decision to pay the Applicant at the single rate should considered to be lawful: he was paid in accordance with staff rule 3.18 (e) and sec. 4.1 of ST/AI/2000/5, which provide that payment is made upon submission of proof of relocation; in the instant case such proof was provided only in 2011; hence, it is the USD/CHF rate of 2011 that applies and not that of 2008;

i. Moreover, the Applicant was paid at the single rate because at the time of his separation in 2008 he had no registered dependent, in accordance with staff rule 3.19 (a) (ii) and Annex IV to the Staff Rules; he was fully aware of that situation since he was told by email of 22 February 2011 from the Deputy Chief, Payroll Unit, UNOG, that he should "take into account that [his] child [C.] was discontinued effective 28/8/2007";

j. In view of the above, the application should be rejected.

Consideration

Scope of the application

50. At the outset, it is necessary for the Tribunal to determine which decisions are being challenged by the Applicant and have been duly submitted to the Tribunal. Indeed, it is not obvious what exactly he wishes to contest before the Tribunal.

51. The Tribunal takes first note of the important fact that in his management evaluation request of 30 April 2013, the Applicant described the decision being challenged as "the payment of repatriation grant at single instead of dependency rate".

52. Then, in his initial submission to the Tribunal of 30 July 2013, the Applicant identified the contested decisions as follows:

> A. Incorrect dependency status so repatriation grant underpaid by USD20,780.
>
> B. Exchange loss due to repatriation grant payment delays CHF13,500.
>
> C. Annual leave balance understated by 2 days.
>
> D. No repatriation travel ticket paid.

53. For points C and D above he noted however that these were “not significant” and that he was “willing to forego” them.

54. Finally, in his completed application filed on 2 August 2013, the Applicant explained that the repatriation grant was paid to him at the single rate following a refusal to rescind his SLWOP or to correct his dependency status, which had been changed “unbeknown to [him]” following the change in his “wife’s status to record [him] as her dependent after [their] marriage”. He indicated that he had been informed of the decision to refuse the cancellation of his SLWOP on 28 June 2010, and of the “basis of the repatriation grant payment” on 11 March 2013. In Section IX of the application form, he listed the remedies he requested as follows:

> 1. Payment of repatriation grant at the dependency rate instead of single rate (underpaid by USD20,780).
>
> 2. Recover of exchange loss due to payment of repatriation grant 5 years after separation (despite numerous requests to pay) (loss of CHF13,500).
>
> 3. Payment of 2 days accrued annual leave since balance was understated and not corrected after 3 years of reminders.
>
> 4. Payment of repatriation air ticket Geneva to New York.

55. He added however that “items 3 and 4 [were] not important” and that he had “initially told [the Management Evaluation Unit] they could be ignored so as not to detract attention from items 1 and 2”.

56. Against this background, the Tribunal recalls what the Appeals Tribunal held in *Massabni* 2012-UNAT-238, namely that:

> 2. The duties of a Judge prior to taking a decision include the adequate interpretation and comprehension of the applications submitted by the parties, whatever their names, words, structure or content they assign to them, as the judgment must necessarily refer to the scope of the parties' contentions. Otherwise, the decision-maker would not be able to follow the correct process to accomplish his or her task, making up his or her mind and elaborating on a judgment motivated in reasons of fact and law related to the parties' submissions.
>
> 3. Thus, the authority to render a judgment gives the Judge an inherent power to individualize and define the administrative decision impugned by a party and identify what is in fact being contested and so, subject to judicial review which could lead to grant or not to grant the requested judgment.

57. The Tribunal further recalls that art. 8.1(c) of its Statute provides that an application "shall be receivable if: … (c) [a]n applicant has previously submitted the contested administrative decision for management evaluation, where required". This requirement has been invariably upheld by the Appeals Tribunal (see *Servas* 2013-UNAT-349, *Dzverovic* 2013-UNAT-338, *Rosana* 2012-UNAT-273).

58. It follows from the above that the management evaluation request is the frame to be applied by the Tribunal for its determination of the scope of an application. In the present case, the Tribunal concludes that the Applicant has duly brought before it solely the decision of the payment of his repatriation grant at the single rather than at the dependency rate, since it is the only decision he contested in his request for management evaluation and in the present application. All other decisions only mentioned in his application—namely the recovery of the alleged exchange loss due to delays in the payment of his repatriation grant, the payment of two days of accrued annual leave, the payment of his repatriation air travel ticket, and the refusal to rescind his SLWOP—are not properly before the Tribunal as they were not included in his request for management evaluation.

Receivability ratione materiae

59. Pursuant to art. 2.1 of its Statute, the UNDT has jurisdiction to consider applications appealing an administrative decision only when the staff member has previously submitted the impugned decision for management evaluation and the application is filed within specified deadlines (see *Egglesfield* 2014-UNAT-402, *Ajdini et al.* 2011-UNAT-108). With respect to the time limits for the request for management evaluation, staff rule 11.2(c) provides:

> A request for management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested. This deadline may be extended by the Secretary-General pending efforts for informal resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General.

60. Pursuant to art. 8.3 of its Statute and according to established jurisprudence since *Costa* 2010-UNAT-036, the Dispute Tribunal has no discretion to waive the deadline for management evaluation or administrative review.

61. In addition, the Appeals Tribunal clarified that for the statutory time limits to start to run, the determining date is the date on which the staff member was informed of the decision, and not when he/she realized or was provided with a reasonable belief that there were grounds to request management evaluation (*Rahman* 2012-UNAT-260).

62. In the case at hand, it is worth recalling the main facts relating to the issue of the payment of the Applicant's repatriation grant.

63. On 25 September 2008, the Applicant was separated from the Organization; the relevant PA was, however, issued only on 28 January 2010, preceded and followed by lengthy correspondence between him and OCHA. The Applicant finally asked for the payment of his repatriation grant and his last salary on 13 September 2010 and 6 December 2010.

64. On 31 December 2010, a payment was actually made to the Applicant's bank account, but it failed. At the beginning of 2011, the Applicant received a "Statement of earnings and deductions" (payslip) entitled "Final Pay", for the period 1-31 December 2010 and indicating 31 December 2010 as pay date. As mentioned in para. 25 above, the payslip included the following indications in the column "Retroactive":

Repatriation held in trust Gross Salary:	USD40,414.89
Repatriation held in trust Staff Assessment:	USD-12,709.40
Repatriation Grant Accrual:	USD98.78

65. Following his request for clarification addressed to the Payroll Unit, UNOG, the Applicant was informed that the payslip was "the detail of [his] Separation payment from OCHA"; he was also given explanations pertaining to the period concerned ("29 August to 4 September 2007") and was told that the payment included "the travel days" he was due and the repatriation grant, which was for the time being "held in escrow, pending [his] proof of relocation". He was further reminded, by another email of 22 February 2011 from the Payroll Unit, that his "child [C.] was discontinued effective 29/08/2007", and was provided with an "excel file with [details] of the deductions/payments made for August 2007", which indicated the "Difference Dependent/Single" for each of the amounts of Gross Salary, Medical Insurance, UN Medical Insurance Subsidy, Non-removal element of mobility and hardship allowance, Post adjustment, Staff member's pension contribution, Organization's pension contribution, and Staff assessment.

66. Following another lengthy series of email exchanges between the Applicant and OCHA, an amount of USD 27,705.49 (amounting to CHF25,516.76) was paid to his UBS bank account on 22 December 2011. As noted by the Tribunal, the amount of the payment corresponded to the repatriation grant as indicated in the payslip of December 2010, namely 'Repatriation Grant - Gross Salary' of USD40,414.89 minus 'Repatriation Grant - Staff Assessment' of USD12,709.40. Due to difficulties in accessing information regarding his UBS bank account and following a series of email inquiries, the Applicant was informed by the Payroll Unit only on 21 December 2012 that the payment had been made.

67. From the above chronology of events, it follows that already at the beginning of 2011, when he had received his payslip, the Applicant was necessarily aware of the amount of repatriation grant he would receive. Indeed, based on the explanations he had received at that time from the Payroll Unit, which reminded him of the fact that his daughter had been "discontinued effective 29 August 2007" and provided him with an excel file with the differences "Dependent/Single" for the amounts listed in his payslip, the Tribunal considers that by then he knew or at least should have been reasonably aware that the repatriation grant had been calculated at the single rate and not at the dependency rate. This is further confirmed by the fact that the Applicant had stated in his email of 22 February 2011 that his final payslip showed "that the actions on … dependency status were not taken" (see para. 31 above). Thus, already at that date he must have been aware of the fact that the repatriation grant had been calculated at the 'single' rate.

68. Therefore, February 2011 has to be considered as the date of the notification of the decision, from which the 60-day deadline set forth under staff rule 11.2(c) started to run. However, the Applicant submitted his request for management evaluation only in April 2013, which is obviously not in time and renders his application before the Tribunal irreceivable.

69. Even if one were to conclude, in favour of the Applicant and for the sake of argument, that he was duly notified of the decision to pay his repatriation grant at the single rate only when he was informed of the actual payment of the amount into this bank account, i.e. on 21 December 2012, the request for management evaluation he submitted on 29 and 30 April 2013 would still be time-barred.

70. Contrary to what the Applicant claims, the email he received on 11 March 2013 from the Payroll Unit with details of the calculation is merely an explanation for the amount received and does not constitute an administrative decision in itself. Such a mere explanation had no effect on the Applicant's legal rights; rather, it is the payslip of December 2010 which contains the administrative decision that is being challenged.

71. In view of the above, and since the request for management evaluation was only submitted in April 2013, it is clearly time-barred. The Tribunal therefore concludes that the application, with respect to the decision to pay the Applicant his repatriation grant at the single rate rather than at the dependency rate, is not receivable.

Conclusion

72. In view of the foregoing, the Tribunal DECIDES:

The application is rejected in its entirety.

(*Signed*)

Judge Thomas Laker

Dated this 16th day of June 2014

Entered in the Register on this 16th day of June 2014

(*Signed*)

René M. Vargas M., Registrar, Geneva