



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

DUVERNÉ

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

**ON DISMISSAL FOR WANT OF
PROSECUTION**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alister Cumming, UNICEF

Introduction

1. On 22 October 2017, the Applicant filed the application in which she contests the “[t]ermination of [her] fixed-term contract following a ‘low achievement’ rating [she] received for the 2016 Performance Appraisal, the result of an assessment relating to allegations of retaliation and the Management Evaluation”.
2. On 16 November 2017, the Respondent filed his reply in which he contends that the application is without merit.
3. On 1 July 2019, the case was reassigned to the undersigned Judge.
4. By Order No. 119 (NY/2019) dated 21 August 2019, the Tribunal ordered the Applicant to file her observations, if any, to the Respondent’s reply by 18 September 2019.
5. On 4 October 2019, upon the instructions of the Tribunal, the Registry unsuccessfully attempted to contact the Applicant via telephone as she had submitted no response to Order No. 119 (NY/2019). By email of the same date from the Registry, the Tribunal ordered the Applicant to file her observations, if any, as indicated in para. 5 of Order No. 119 (NY/2019) by 11 October 2019, together with an explanation for the reasons for the delay in filing.
6. As the Applicant had not yet filed any submissions, by Order No. 141 (NY/2019) dated 16 October 2019, the Tribunal ordered the Applicant to file a submission indicating whether she wishes to pursue the present case by 30 October 2019. The Tribunal noted that in the event that the Applicant failed to respond to this Order, her application would be dismissed for want of prosecution in its entirety without liberty to reinstate. The Tribunal instructed the Registry to send a copy of this

order by registered mail to the address on file for the Applicant, which it did on 17 October 2019.

7. As of the date of this Judgment, no submission or further correspondence have been received by the Registry from the Applicant or anyone on her behalf in response to Orders No. 119 and 141 (NY/2019).

Consideration

8. The Dispute Tribunal has, on several occasions, endorsed the principle of procedural law that the right to institute and pursue legal proceedings is predicated upon the condition that the person exercising this right has a legitimate interest in initiating and maintaining legal action and that access to the court has to be denied to those who are no longer interested in the proceedings or are no longer in need of judicial remedy (see, for instance, *Bimo and Bimo* UNDT/2009/061, *Saab-Mekkour* UNDT/2010/047, *Zhang-Osmancevic* UNDT/2015/034, *Monga* Order No. 198 (NY/2018), *Kitagawa* Order No. 100 (NY/2019) and *Gouin* UNDT/2019/140).

9. In the present case, by Order No. 119 (NY/2019), the Tribunal provided the Applicant with an opportunity to pursue her case, but she did not respond within the given time limit. Upon the instructions of the Tribunal, the Registry then intended to contact the Applicant via telephone and email to remind her of Order No. 119 (NY/2019) and postpone her deadline, but the Applicant did not respond to any of these communications. In addition to being forwarded through the eFiling portal, Order No. 141 (NY/2019) was subsequently sent by registered mail to the postal address indicated by the Applicant in the application, and in this Order, the Applicant was clearly informed of the consequences of her failure to respond to the Tribunal's instructions, namely that her case would be dismissed for want of prosecution. The

Applicant, however, did not provide any response whatsoever to Order No. 141 (NY/2019).

10. The Tribunal, therefore, can only conclude that the Applicant is no longer interested in the pursuit and outcome of these legal proceedings, which must therefore be deemed to have been abandoned, and this matter therefore stands to be dismissed for want of prosecution.

Judgment

11. In light of the foregoing, but without determination of its merits, the Applicant's application is dismissed for want of prosecution.

(Signed)
Judge Joelle Adda

Dated this 31st day of October 2019

Entered in the Register on this 31st day of October 2019

(Signed)

Nerea Suero Fontecha, Registrar, New York