



**Before:** Judge Eleanor Donaldson-Honeywell

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

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v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
Angela Arroyo, UNDP

## **Introduction**

1. The Applicant, a former staff member with the United Nations Development Programme (“UNDP”), filed an application to request the reimbursement of a dental claim in the amount of USD29.81 and a bank fee charged for a returned cheque in the amount of USD25. The Applicant also requests USD800 for moral damages.

2. The Respondent submits that the application is moot since Cigna, the dental insurance provider, had already issued a new cheque for the reimbursement of the Applicant’s dental claim. This was done on 11 July 2019 before the Applicant filed her request to the Management Evaluation Unit (“MEU”) on 9 September 2019. The MEU promptly investigated the Applicant’s complaint and it was found that the reimbursement cheque remained valid and available to be cashed. However, as the Applicant had reported numerous changes of address, the Respondent requested Cigna to issue a new cheque.

3. Additionally, the Respondent contends that any delay in the reimbursement reaching the Applicant was due to operational hurdles arising from the Applicant’s changes of address. Although the Applicant did not present evidence of having incurred bank fees due to these delays, the Secretary-General has already authorized payment of the bank fee claimed by her.

4. The remaining issue according to the Respondent is that the Administration is waiting for the Applicant to provide her banking details so that the Administration can transfer USD25 for the bank fee to her. The Respondent further submits that the Applicant’s claim of moral damages is not supported by evidence and thus should be rejected.

5. For the reasons below, the Tribunal rejects the application.

## Considerations

6. In light of the Respondent's submission, the issue before the Tribunal is whether the matter brought in the application is moot and therefore, whether the application is not receivable.

7. In *Kallon* 2017-UNAT-742, the Appeals Tribunal explained the mootness doctrine as follows:

44. ... Just as a person may not bring a case about an already resolved controversy (*res judicata*) so too he should not be able to continue a case when the controversy is resolved during its pendency. The doctrine accordingly recognizes that when a matter is resolved before judgment, judicial economy dictates that the courts abjure decision.

8. The Tribunal agrees with the Respondent that the case is moot since a cheque for the reimbursement of a dental claim was already issued prior to the filing of this application. The Respondent has, however, in an effort to ensure full closure for the Applicant, arranged for a new cheque to be issued and has also authorized the payment of USD25 for a bank fee. There is no longer any administrative decision to be contested, and the dispute is resolved. It appears that the only remaining issue is an arrangement to make a payment of the bank fee by issuing a cheque or transferring money to the Applicant's account. This is not a legal question for the Tribunal to adjudicate upon.

9. Regarding moral damages, while the Applicant claims moral damages for "[t]ime cost and emotional shock to follow up for medical claim of USD29.81 and the cheque return deposit fee of USD25", she has failed to provide any evidence to support her claim of moral damages in either her request for management evaluation or her application to this Tribunal. In email correspondence with the Applicant, the MEU requested on 25 October 2019 that she submit evidence to support the claim for moral damages so that it could be considered. However, no evidence was submitted.

10. Under art. 10.5(b) of the Dispute Tribunal’s Statute, compensation for harm should be supported by evidence, and as the Appeals Tribunal held, “the testimony of the complainant is not sufficient without corroboration by independent evidence (expert or otherwise)” (*Langue* 2018-UNAT-858, para. 18, citing *Kallon* 2017-UNAT-742). Therefore, the Tribunal must reject the request for moral damages.

**Conclusion**

11. The Tribunal rejects the present application.

*(Signed)*

Judge Eleanor Donaldson-Honeywell

Dated this 22<sup>nd</sup> day of January 2020

Entered in the Register on this 22<sup>nd</sup> day of January 2020

*(Signed)*

Nerea Suero Fontecha, Registrar, New York