



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2023/053

Judgment No.: UNDT/2023/074

Date: 21 July 2023

Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Abena Kwakye-Berko

EL-ANANI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:

Abdel Wahab Bachar Kharboutly

Counsel for the Respondent:

Jacob B. van de Velden, DAS/ALD/OHR, UN Secretariat

Maria Romanova, DAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a former staff member of the Office of the United Nations Special Coordinator for Lebanon (“UNSCOL”). He filed an application on 28 June 2023 to contest the imposition on him of the disciplinary measure of separation from service with compensation in lieu of notice, and without termination indemnity, in accordance with staff rule 10.2(a)(viii).

2. The Respondent filed a motion for summary judgment seeking to dismiss the application on the basis that it had been filed after the 90-calendar day filing deadline stipulated in art. 8.1 of the UNDT Statute and staff rule 11.4(b) had expired.

Considerations

3. The Tribunal finds that the application is not receivable *ratione temporis* for the reasons below.

4. Article 8.1(d)(ii) prescribes that an application shall be receivable if in cases where management evaluation of the contested decision is not required, it is filed within 90 calendar days of the applicant’s receipt of the administrative decision. Staff rule 11.4(b) sets the same deadline. Further, the United Nations Appeals Tribunal (“UNAT”) has consistently and strictly enforced the time limits for filing applications and appeals simply because strict adherence to filing deadlines ensures the timely hearing of cases and rendering of judgments.¹

5. The evidence before the Tribunal includes two Microsoft Outlook notifications which establish that the administrative decision was delivered to and read by the Applicant on 28 March 2023.² The Applicant does not deny the authenticity of the Microsoft Outlook notifications. This means that the Applicant should have filed his application no later than 26 June 2023 to comply with the 90-calendar day deadline.

¹ *Mezoui* 2010-UNAT-043; *Kissila* 2014-UNAT-470.

² Respondent’s motion for summary judgment, annexes 6 and 7.

He filed his application on 28 June 2023, which was two days after the statutory deadline.

6. The Tribunal finds the Applicant's arguments regarding the application of unspecified international law and Lebanese law to the issue at hand to be misconceived. The applicable legal framework for applications before the Tribunal are the UNDT Statute and Rules of Procedure, UNAT jurisprudence³ and the United Nations Regulations and Rules.

JUDGMENT

7. The application is dismissed.

(Signed)
Judge Sean Wallace

Dated this 21st day of July 2023

Entered in the Register on this 21st day of July 2023

(Signed)
Abena Kwakye-Berko, Registrar, Nairobi

³ *Hepworth* 2015-UNAT-503, para. 40; *Igbinedion* 2014-UNAT-410, para. 24.