



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

NDAO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT
ON RECEIVABILITY

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Charlotte Servant-L'Heureux, UNHCR
Jan Schrankel, UNHCR

Introduction

1. The Applicant is a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) based in Tahoua, Niger. On 18 June 2024, he filed an application in which he contests the “non-renewal of [his] contract following false allegations”.

2. On 1 July 2024, the Respondent filed a motion for summary judgment requesting the Dispute Tribunal to dismiss the application as not receivable since the Applicant had failed to file a timely request for management evaluation.

Facts

3. Beginning in January 2014, the Applicant occupied various functions in several different countries on temporary appointments. On 27 October 2022, he started a three-month temporary appointment with UNHCR, at the P-4 level, as Head of the Sub-Office in Tahoua, Niger. His temporary appointment was extended until 30 June 2023.

4. On 8 May 2023, the Applicant was informed that his temporary appointment would not be extended beyond 30 June 2023. On 20 June 2023, he filed a complaint with the Inspector General’s Office (“IGO”) against his supervisor, in which, *inter alia*, he raised concerns regarding the non-renewal of his contract.

5. On 21 June 2023, the IGO acknowledged receipt of the Applicant’s complaint and, with respect to the non-renewal of his appointment, drew his attention to the management evaluation process as well as to the relevant deadlines.

6. On 30 June 2023, the Applicant’s temporary appointment expired, and he was separated from UNHCR.

7. On 2 May 2024, the Applicant submitted his request for management evaluation of the decision not to renew his temporary appointment.

Parties' submissions

8. The Applicant submits that while he was on leave, the UNHCR Deputy Representative informed him on 8 May 2023 by a WhatsApp call and an email that his temporary appointment would not be renewed. He maintains that the non-renewal was “just based on [a staff member’s] complaint against the Head of Office”. The Applicant had consistently been in regular contact with the UNHCR Representative and Deputy Representative regarding their field operations, and prior to these communications of 8 May 2023, there had not been any discussion about the allegations, nor about the non-renewal of his contract. He asserts that “no reproach or grievance concerning [his] working methods or [his] relations with colleagues or other key actors [had] been brought to [his] attention either verbally or in writing by the Senior Management prior to this decision” (emphasis omitted).

9. The Applicant further asserts after being notified of the non-renewal decision, he filed a complaint with the IGO on 20 June 2023 and expected in good faith that an investigation would follow. He also conducted “several online meetings with [the] Ombudsman”, but he has “just become aware that the [Management Evaluation Request] form must be submitted within 60 calendar days from the date on which the civil servant receives notification of the administrative decision he intends to contest”.

10. The Respondent moves for summary judgment on receivability pursuant to art. 9 of the Dispute Tribunal’s Rules of Procedure. He submits that the Applicant received notification of the contested decision on 8 May 2023 and that under staff rule 11.2(a) and (c), the Applicant was required to file a request for management evaluation of the contested decision within 60 days but failed to do so. Instead, the Applicant submitted his request for management evaluation on 2 May 2024, approximately one year later. Further, pursuant to art. 8.3 of the Dispute Tribunal’s Statute, the Tribunal does not have jurisdiction to waive the deadlines for management evaluation. Accordingly, the Tribunal has no jurisdiction to hear and pass judgment on the application in accordance with art. 8.1(c) of the Statute.

Considerations

11. Staff rule 11.2 provides:

(a) Staff members wishing to formally contest an administrative decision alleging non-compliance with their contract of employment or terms of appointment, including all pertinent regulations and rules pursuant to staff regulation 11.1 (a), shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision.

...

(c) A request for a 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.

12. Article 8 of the Statute of the Dispute Tribunal stipulates, in relevant parts, as follows:

1. An application shall be receivable if:

(a) The Dispute Tribunal is competent to hear and pass judgement on the application, pursuant to article 2 of the present statute;

...

(c) An applicant has previously submitted the contested administrative decision for management evaluation, where required;

...

13. Article 9 of the Dispute Tribunal's Rules of Procedure provides:

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate.

14. Under the jurisprudence of the Appeals Tribunal, summary judgment is an appropriate procedure for the Dispute Tribunal to adopt in order to determine the receivability of an application since the issue in such circumstances is one of law and not fact. The summary judgment procedure allows the Dispute Tribunal to determine

the issue without receiving any argument or evidence from the parties. (See, for instance, *AAP* 2023-UNAT-1391, para. 27; *Auda* 2017-UNAT-740, para. 18; *Kazazi* 2015-UNAT-557, paras. 41-42.)

15. It is not in dispute that the Applicant received notice of the contested decision on 8 May 2023 and that he only sought management evaluation in respect of the contested decision on 2 May 2024, approximately one year later. Since the management evaluation request was submitted outside of the statutory 60-day deadline stipulated in staff rule 11.2(c), the application is non-receivable *ratione materiae* (see, also, *Christensen* 2013-UNAT-335).

Conclusion

16. The Respondent's motion for summary judgment is granted.

17. The application is dismissed as non-receivable.

(Signed)

Judge Joelle Adda

Dated this 9th day of July 2024

Entered in the Register on this 9th day of July 2024

(Signed)

Isaac Endeley, Registrar, New York