



Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

HELAL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Nicole Wynn, AS/ALD/OHR, UN Secretariat

Charlene Ndirangu, AS/ALD/OHR, UN Secretariat

Introduction and procedural history

1. The Applicant is an Administrative Officer with the United Nations Support Office in Somalia (UNSOS) in Mogadishu.
2. On 28 April 2025, he filed this application contesting the Administration's denial of his Rest and Recuperation (R&R) entitlement travel, and conversion of days taken as R&R to annual leave.
3. The Respondent's reply was timely filed on 9 June 2024, and the parties subsequently filed closing submissions, so this case is ripe for judgment.

Legal Framework

4. Since rest and recuperation entitlements are rather arcane, it is helpful to first lay out the applicable legal framework.
5. These entitlements are governed by the administrative instruction "Rest and recuperation," ST/AI/2018/10 ("the AI"). Section 1.1 of the AI clearly outlines the purpose of rest and recuperation:

Staff members appointed or assigned to work for extended periods at designated duty stations under hazardous, stressful and difficult conditions shall be granted regular periods of rest and recuperation to protect their health and well-being and ensure optimal work performance upon the resumption of their duties, while preserving the operational readiness of the Organization. Rest and recuperation is a means by which staff members may take regular authorized time outside the duty station approved for rest and recuperation to be given a break from the dangerous, stressful and difficult working and living conditions under which they serve. Rest and recuperation is not an additional annual leave entitlement or financial compensation for the degree of hardship and insecurity of a duty station.

6. Section 1.2 provides that

The authorized time off for rest and recuperation shall consist of five consecutive calendar days not charged to annual leave, plus actual travel time. To ensure that the purpose set out in section 1.1 above is achieved, rest and recuperation shall be granted once the conditions set out in section 3 below have been met.

7. The AI also provides for the Assistant Secretary-General for Human Resources Management (“ASG/HR”) to approve duty stations for R&R and the length of the R&R cycle at each approved duty station, subject to periodic review. *Id.* sec. 2. Mogadishu has been approved for R&R on a 28-day cycle.

8. The basic rule of the rest and recuperation entitlement is explicitly stated under the “Conditions” in Section 3:

Staff members shall be granted time off for rest and recuperation after serving the period of qualifying service in the duty station Staff members shall be granted time off for rest and recuperation **after serving the period of qualifying service in the duty station** approved for rest and recuperation and subject to the provisions below. **Qualifying service is the presence of a staff member at the duty station** for the period corresponding to the rest and recuperation cycle authorized for that duty station ... (Section 3.1) (emphasis added).

And “[i]n order to be granted time off for rest and recuperation, qualifying service at a duty station approved for rest and recuperation must be uninterrupted.” (Section 3.3) “When qualifying service is interrupted, any service accrued prior to the interruption shall be forfeited. The accrual of qualifying service shall commence upon the staff members’ return to the duty station approved for rest and recuperation.” (Sec. 3.7)

9. Under sec. 3.4, “[t]he period of qualifying service shall run from the date on which staff members arrive at the duty station or from the date on which they return to the duty station after an absence on rest and recuperation.”

10. Although the AI lists various caveats and exceptions to these basic rules, none apply in this case.

11. Section 3.9 of the AI authorizes staff members to utilize their R&R entitlement to maximum effect by allowing other types of leave entitlement to be combined with the R&R - weekends, official holidays, annual leave, certified sick leave, uncertified sick leave (authorized). And it further allows a staff member to utilize these leave entitlements before or after the actual R&R: e.g., a staff member may take the weekend before actually beginning his R&R days; and a staff member may extend his travel to include the holidays coming after his R&R days, etc. However, the rule does NOT allow a staff member to leave the duty station before accumulating the qualifying time in the mission area (without pre-approval).

12. The AI explicitly cites travel time as a component of the R&R entitlement – in Sections 1.2 and 3.8. As a practical consideration, since R&R entitlement only applies in duty stations that present “hazardous, stressful and difficult conditions”, traveling in and out of such duty station could prove difficult. Accordingly, the organization grants travel time “to enable travel between the duty station and the designated rest and recuperation designation”. *Id.* sec. 1.2, footnote 1.

13. The outbound travel day marks the initiation of the R&R travel entitlement. Even if a staff member takes additional leave along with (before/after) the R&R entitlement days, the outbound travel day on the day he left the mission is what indicates in the system that the R&R entitlement will be utilized prior to his return.

14. Accordingly, it only stands to reason that that outbound travel day cannot occur before the expiration of the qualifying physical presence in-mission period. And consequently, the qualifying period for R&R may not be accumulated outside the duty station unless advance R&R has been approved.

15. Any departure from the duty station before the accumulation of the qualifying service period undermines the general rule that such service must be uninterrupted, and thus must be scrutinized pursuant to Section 3.7 to determine whether it breaks the cycle. If a departure is determined to be interrupted, a staff member forfeits the entire R&R entitlement for the cycle. In limited cases, the cycle may be suspended

if a staff member travels on official business. In this case the cycle is not forfeited, but accrual of time for the qualifying services stops until the staff member returns to the duty station.

16. There is one notable exception with respect to the initiation of R&R – a staff member can leave early, but it must be preapproved. Under sec. 3.15, a staff member can avoid an interruption (and the forfeiture of an R&R cycle due to early departure) by requesting and receiving approval from the head of mission or chief of mission support to take R&R up to seven days before meeting the qualifying service period. If this is approved, then the staff member must “pay it back” in the next R&R cycle – in other words “leave early this cycle, leave late next cycle”.

Facts

17. The parties agree that the Applicant returned to Mogadishu from his previous R&R on 19 May. Under the relevant rules, he was eligible for another R&R entitlement beginning 16 June.

18. On 8 June 2024, the Applicant requested R&R leave to begin on Sunday, 16 June.

19. However, the Applicant left the mission area after working hours on Thursday, 13 June. Friday and Saturday (14-15 June) were non-working (weekend) days at the duty station, while Sunday and Monday (16-17 June) were holidays in observance of the Eid al Adha. The Applicant was on pre-authorized annual leave from 18-20 June (Tuesday to Thursday). The following Friday and Saturday (21-22 June) were again non-working days in UNSOS. Accordingly, the Applicant claimed R&R from 23-27 June (Sunday to Thursday).

20. Again, the following Friday and Saturday 28-29 June, were non-working weekend days. The Applicant then claimed flexible work arrangements (“FWA”) from 30 June until 11 July (Sunday to Thursday) during which Friday and Saturday 5-6 July were non-working weekend days. He returned to the mission area in Mogadishu on 14 July (Sunday) following the 12-13 Friday and Saturday non-working weekend days.

21. In late June, the Regional Support Centre in Entebbe (RSCE) returned the Applicant's request for R&R, since there was no corresponding outbound R&R travel date in the system. In response, UNSOS entered 13 June in the system as the Applicant's R&R outbound travel day. The Applicant objected to this, claiming that this would result in 13 June being the start of his R&R, which he did not intend, and would amount to advance R&R.

22. RSCE then consulted DOS-HR for advice on how to input the Applicant's travel, and DOS-HR advised that it should be treated as advance R&R. As a result, RSCE instructed UNSOS to advise the Applicant to share the memorandum which authorized his advance R&R leave three days ahead of his R&R qualifying period, and informed UNSOS that if the Applicant did not have prior authorization to depart early on R&R those days would be converted to annual leave.

23. On 18 December, the Applicant submitted a request for management evaluation of this decision, and on 30 January 2025, MAES upheld the contested administrative decision.

Parties' submissions

24. The Applicant's principal contentions are:

- a. The contested decision is unlawful under ST/AI/2018/10, Rest and Recuperation, and its corrigendum, as the Applicant had the right to exercise R&R on 23 June 2024, despite his absence from the duty station from 14 to 16 June 2024, having accrued the requisite qualifying service as of 16 June 2024, 28 days after his arrival from the previous absence on 14 May 2024;
- b. There was no instance between 13 June, the day he departed from the duty station, and 14 July, the date he returned, on which he was absent from work without authorization;
- c. There is no provision nor procedure that requires "managerial approval" for staff members to "leave the duty station" on non-working days and

UMOJA does not allow recording of absences on non-working days. The Respondent concedes in his submission that the Applicant had duly submitted requests – and received approval for – all and any absences involving working days (paras. 8-10) – with the exception of travel time for 13 June, when he was indeed working rather than absent.

d. The Respondent errs in linking the managerial approval to recording travel time, as leaving the duty station does not necessarily attract a travel time entitlement.

e. There is no provision identifying travel time as an eligibility condition or constitutive element of the R&R entitlement. Only uninterrupted qualifying service (as defined) in an R&R-approved duty station is recognized as such under the AI (section 3). Respondent correctly describes the R&R entitlement as consisting of (i) travel time and (ii) rest days, but fails to provide an unequivocal legal basis in the policy for travel time being a condition *sine qua non*, without which the rest days portion of the entitlement must also be denied.

f. There is no provision requiring staff members to start their R&R absence from within the duty station. The fact that [he] was outside the duty station at the moment of completing [his] qualifying service does not contravene any provisions on R&R eligibility, nor on travel, nor on qualifying service.

g. There is no provision that requires staff members to physically remain at the duty station throughout the entirety of four weeks (or 28 days) of qualifying service, as claimed by Respondent. On the contrary, Respondent's claim is refuted by section 3.7, among several explicitly regulated exceptions, which allows staff members not to be present in the duty station for the whole of the qualifying service (see also sections 3.5 and 3.6 for additional exceptions).

h. There is no provision stating that staff cannot “use the days out of the Mission area to complete the qualifying period”. Similarly, there is no

provision in the AI addressing the effect of absence from the duty station on non-working days on the qualifying service.

i. There is no provision requiring staff members to return to the duty station from an absence that did not interrupt or suspend their R&R cycle before departing again on R&R.

j. There is no provision that requires staff members to exercise an allowed absence not constituting an interruption of qualifying service at a particular time during the R&R cycle or after its completion before allowing a combination of such absence with R&R; nor prohibits the exercise of such absence at the very end of the R&R cycle; nor requires the staff member to proceed directly on R&R after a non-interruptive absence; nor prohibits combining R&R with other absence types, including leave.

k. Respondent confuses a personal deviation, which is not regulated nor restricted by the AI, with Advance R&R under section 3.15 of the AI.

25. The Respondent's principal contentions are:

a. The contested decision to deny the Applicant's rest and recuperation leave (R&R) from 23-27 June and 14 July 2024 and charge the absences to annual leave was a lawful and reasonable exercise of management discretion under the R&R AI and staff rule 5.3(e).

b. Since the Applicant departed Mogadishu early on 13 June, three days before his eligibility date, he did not earn the "break" for R&R.

c. The Applicant could only combine a weekend and a holiday with R&R if his departure occurred **after** being physically present in Mogadishu for 28 days.

d. There is no such thing as a "deviation" to satisfy the R&R requirements and avoid the interruption of qualifying service.

e. Section 3.15 required prior approval for an early departure, which the Applicant did not obtain. Furthermore, he refused to request advance R&R even though UNSOS was willing to approve it.

f. This outcome resulted directly from the Applicant's violation of sections 1.2 and 3 of the R&R AI.

Consideration

26. None of the essential facts are disputed in this case and the Applicant has admitted all of the facts necessary for determination of the applicability of R&R for the qualifying cycle.

27. It is undisputed that the "period of qualifying service" for UNSOS was 28 days. Therefore, under the AI, the Applicant was required to spend 28 uninterrupted days physically present "at the duty station", i.e., in Mogadishu, to be eligible to avail of the R&R entitlement.

28. The Applicant admits that he left the duty station on 13 June. He admits that his R&R qualifying service was not effective until 16 June. He further admits that he did not return to the mission after his 13 June "long weekend" departure and that he did not return to the duty station until 14 July. The Applicant admits that he did not enter an outbound travel day in the system and also admits that he did not request approval to take advance R&R.

29. It is further undisputed that the Applicant was indeed not present in the duty station for 28 days after his last return. The Applicant himself admits that he had returned from his last R&R on 19 May 2024. Twenty-eight days later is 16 June, which is when he re-qualified for R&R. So, when the Applicant departed Mogadishu on 13 June 2024, he had not yet completed the period of qualifying service. His absence thereafter constituted an interruption and forfeiture of the 25 days he had then accrued.

30. The Applicant offers various interpretations of the AI, and additional considerations which the AI does not support. All the interpretations conflate

“workday”, “approved non-workday” and physical presence at the duty station. As such the Applicant focuses on whether the time at issue was a weekend, or a holiday or other non-chargeable day.

31. This argument misses the point: R&R is not about the chargeable days; it’s about reprieve from the stressful environment of the duty station after an uninterrupted period of being physically present there. This is clearly stated in the purpose.

32. The Applicant points out that the days between 13 and 16 June were “non-working days” and that the rule allows of up to three days of absence before service is considered interrupted. However, he ignores the essential fact that he did not return to the duty station after 16 June in order to complete the accumulation of the requisite 28 days in the duty station. If he had done so, under sec. 3.7 the long weekend of 13-16 June would not have constituted an interruption, and since they were non-working days, there would have been no leave implications for the Applicant’s excursion. However, by failing to return to the duty station after this allowable “break” in the qualifying in-presence period, the Applicant still only had 25 days of qualifying credit. Thus, he was not yet eligible for the R&R entitlement.

33. The Applicant seemed to be aware of this problem because he only entered an ending travel day in the software system, without entering a beginning travel day. He later refused HR’s suggestion that the day he left the mission should be considered as the travel day for R&R purposes.

34. Administratively, travel time marks the beginning of the entitlement, since R&R is based on presence in the duty station. Departure from the duty station must be monitored and recorded to ensure that any departure does not occur until a staff member has spent the qualifying service inside the duty station. This is implemented in the system through the entering of the travel time. The outbound travel day marks the initiation of the R&R travel entitlement. Even if a staff member were to take additional leave along with (before/after) the R&R entitlement days, the outbound travel day (the day he or she left the mission) is what indicates in the system that the R&R entitlement will be utilized prior to his return. Accordingly, it

only stands to reason that the outbound travel day cannot occur before the qualifying period of physical presence in-mission is met. And consequently, the qualifying period for R&R may not be accumulated outside the duty station, which is what the Applicant attempted to do.

35. The Applicant's argument that "travel days" are not mandatory is unconvincing, inexplicable, and irrelevant. He claims that no rule ties the R&R entitlement to a travel time requirement. On the contrary, section 3.8 of the AI addresses the duration of R&R and states

Absence on rest and recuperation is granted for five consecutive days not charged to annual leave. It includes non-working days, that is, weekends and official holidays, that may fall during the five-day period. **In addition, travel time from and back to the duty station is granted on the day when actual travel takes place.** (emphasis added).

Moreover, the entirety of Section 4 of the AI specifically ties the entitlement to travel time. In keeping with the intent of the R&R entitlement, the travel time/days are also "free" days, and the travel itself is either provided by the Organization when available and feasible or, the Organization pays the travel cost. *Id.*, secs. 4.1 and 4.2. There is no provision in the AI which allows a staff member to "waive" travel time, and there is no legitimate and logical reason that a staff member departing the duty station on R&R would **want** to waive the travel day. The clear purpose behind the Applicant attempting to do so in this case is to hide the fact that he left his duty station before accruing the required period of qualifying service.

36. Thus, the Applicant categorically refused HR's suggestion that he either retroactively apply for advance R&R or allow 13 June – the day he left the mission – to be input into the system as his "travel day".

37. The fact that the Applicant actually recorded an inbound (return) travel day (for 14 July) renders his argument all the more bewildering. The Applicant's theory seems to be that travel time is not a necessary requirement to initiate the R&R entitlement, but it is required to end one's R&R. The Applicant understood that he needed a travel day to mark the end of his R&R entitlement but adamantly purports

that he did not need to mark the initiation of the R&R entitlement. This ignores the question of how the system would process a return from a trip which had not been taken.

38. By steadfastly refusing to acknowledge his error, the Applicant purposely convolutes a simple rule. The AI specifically creates a qualifying period based on physical presence in the duty station. It is basic logic that a rule intended to compensate a staff member for his physical presence inside the duty station does not permit that the physical presence requirement can be accumulated from outside the mission.¹

39. The Applicant's arguments about non-work days and holidays also does not matter. Simply put, under the AI a day in the duty station is a day in the hardship area. Conversely, a day out of the duty station is not a day in the hardship area. Whether or not the staff member is working on any of these days is irrelevant. Thus, when a staff member leaves the duty station on weekends or holidays, those days do not count that time as qualifying service.

40. The AI beneficently recognizes that an exceptional circumstance may exist which require a staff member to leave in advance of the qualifying service period and accommodates on a mere pre-approval. This makes the Applicant's refusal to comply with this requirement even more obstreperous. The Applicant steadfastly refused attempts by the Administration to allow his early departure to coincide with the rules.

41. The record indicates that the Applicant had been in the mission area for years and had properly exercised the entitlement for many R&R cycles, so it's difficult to accept that on this one occasion, the Applicant "forgot" or misunderstood the rules. The Tribunal concludes that the Applicant knowingly attempted to skirt the

¹ The only exception is listed in sec. 3.5 of the AI which provides that qualifying service is not interrupted or suspended when traveling on official business to another duty station that is approved for R&R or when the staff member is transferred or reassigned from one R&R duty station to another. This exception, which recognizes presence in two qualifying duty stations, is consistent with the purpose of R&R, but it does not apply to the circumstances in this case.

rule and take unfair advantage of an already very lenient entitlement. However, this attempt was improper and unsuccessful.

Conclusion

42. At the time that the Applicant left the mission on 13 June 2025, he had not accrued the required 28 days of uninterrupted qualifying physical presence at the duty station in order to be entitled to R&R leave. His days accordingly cannot be attributed to R&R, and the administration's decision to convert the days that the Applicant was not present in the mission area to annual leave was lawful.

43. In view of the foregoing, the Tribunal DECIDES that the application is dismissed in its entirety.

(Signed)

Judge Sean Wallace

Dated this 26th day of August 2025

Entered in the Register on this 26th day of August 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi