



Before: Judge Rowan Downing

Registry: Geneva

Registrar: René M. Vargas M.

BROWN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:

Edward Flaherty

Counsel for Respondent:

Stéphanie Cochard, UNOG

Introduction

1. By application filed on 13 May 2015, after end of business, the Applicant requested suspension of action pending management evaluation of “the decision to separate [her] from service with effect from 21 May 2015”; and “the implicit rejection of the 7 May 2015 urgent request (on medical grounds) ... for an immediate stay of [her] lateral transfer to Fiji”, pursuant to art. 13 of the Tribunal’s Rules of Procedure.

2. Since 14 May 2015 was not a working day (public holiday), the Application was registered on 15 May 2015 under Case No. UNDT/GVA/2015/131, and served to the Respondent on that day with a deadline of 18 May 2015, 5.30 p.m., to file his reply.

Facts

3. The Applicant filed a request for management evaluation of the above-referenced decisions on 13 May 2015.

4. The Officer-in-Charge, Management Evaluation Unit (“MEU”), responded to said request by letter of 15 May 2015, noting that it was not receivable.

5. On 18 May 2015, the Applicant filed an application on the merits, which was registered under Case No. UNDT/GVA/2015/133, against:

a. “Her threatened separation from service, with effect from 21 May 2015, while on service-incurred medical leave”;

b. The “Respondent’s refusal to grant [her] request for a stay (on newly asserted medical grounds) of her lateral transfer to Fiji”; and

c. The MEU decision of 15 May 2015.

6. Also on 18 May 2015, the Applicant filed an application for interim measures pursuant to art. 14 of the Tribunal’s Rules of Procedure against the decisions in paras. 5.a and 5.b above.

Consideration

7. Art. 2.2 of the Tribunal's Statute and art. 13.1 of its Rules of Procedure provide for the Tribunal's jurisdiction to suspend the implementation of an administrative decision, if certain conditions are met. Both provisions clearly state that the Tribunal may order suspension of action only "during the pendency of the management evaluation".

8. The Tribunal's power in this respect is therefore clearly limited to such time until the management evaluation of the relevant decision(s) is finalized. According to the established jurisprudence of the Appeals Tribunal any jurisdictional decision ordering the suspension of a contested administrative decision beyond the completion of the management evaluation exceeds the Tribunal's jurisdiction (*Onana* 2010-UNAT-008; *Igbinedion* 2011-UNAT-159).

9. The Tribunal is satisfied that in the case at hand the management evaluation of the above-referenced decisions was completed on 15 May 2015, as it has been provided with a copy of it.

10. As a consequence, the Tribunal notes that it has no jurisdiction to grant the present request for suspension of action. The Respondent is no longer required to submit his reply.

Conclusion

11. In view of the foregoing, the application for suspension of action is rejected.

(Signed)

Judge Rowan Downing

Dated this 18th day of May 2015

Entered in the Register on this 18th day of May 2015

(Signed)

René M. Vargas M., Registrar, Geneva