



Before: Judge Vinod Boolell
Registry: Nairobi
Registrar: Abena Kwakye-Berko, Acting Registrar

HAROUN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**DECISION ON THE RESPONDENT'S
MOTION FOR THE PRODUCTION OF
FURTHER DOCUMENTS**

Counsel for the Applicant:

Robbie Leighton, Office of Staff Legal Assistance

Counsel for the Respondent:

Steven Dietrich, ALS/OHRM

Elizabeth Gall, ALS/OHRM

Introduction

1. The Applicant holds a fixed-term appointment as an Administrative Assistant at the G5 step 8 level in the United Nations Assistance Mission for Iraq (UNAMI). On 11 December 2012, she filed an Application before the United Nations Dispute Tribunal in Nairobi challenging the decision to reassign her from the Office of the Chief Administrative Services (CAS Office) to the Supply Section in UNAMI (impugned decision).

2. On 28 February 2013, the Tribunal recommended that the Parties should seek to have the issues between them informally resolved. On 8 March 2013, the Parties jointly advised the Tribunal that informal resolution was not possible.

3. On 7 August 2013, the Tribunal issued a Notice of Hearing setting the matter down for trial. The hearing commenced on 18 September 2013.

The Application

4. On 24 September 2013, the Respondent made an oral application to produce additional documents in the form of emails and a budget submission. The Respondent submitted that the additional documents may well result in the Applicant having to be recalled for further testimony, which the Respondent will not object to.

5. The Applicant queries the propriety of the Respondent's introduction of new evidence so late in the process. As the case has been on the court's docket for over 10 months, it is difficult to imagine why documents the Respondent considers so material to the case were not discovered by the Respondent earlier. The Applicant submitted that if the Tribunal was minded to grant the Respondent's motion, the Applicant should be granted the necessary time for the purposes of instructions and re-examination.

DECISION

6. The Tribunal has reviewed the submissions of the Parties and feels it must record its concerns in respect of the Respondent's conduct of this case.
7. The Respondent has been tardy in his preparation for this trial, which has resulted in some loss of the court's time.
8. The Notice of Hearing in this case was issued on 7 August 2013. The Registry directed the Respondent to provide it with contact details of the witnesses he wished to call by 30 August 2013. Nothing was filed until 11 September 2013, following a reminder from the Registry. Similarly, two witness statements were filed; one on the day the hearing started and the other two days later. Both statements caused counsel for the Applicant to have to seek further instructions from his client and for the Applicant to be recalled for re-examination.
9. The Respondent's present motion is made in a similar vein.
10. It would have been appropriate for counsel to have had all the relevant information to hand in the six weeks between the Notice of Hearing and the start of the trial.
11. Having made these observations, and having weighed the interests of the Parties, the Tribunal will exceptionally allow the introduction of these documents and **DIRECTS** service of these documents on the Applicant by **27 September 2013**.
12. To mitigate any prejudice occasioned by this late introduction, the Tribunal will allow counsel for the Applicant sufficient time to receive instructions and recall the Applicant and/or any other witnesses considered necessary. The production of additional documents will also be favourably considered.

(Signed)

Judge Vinod Boolell

Dated this 26th day of September 2013

Entered in the Register on this 26th day of September 2013

(Signed)

Abena Kwakye-Berko, Acting Registrar, Nairobi