



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/096

Order No.: 234 (NBI/2014)

Date: 24 October 2014

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

FAHNGON

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
MOTION FOR WITHDRAWAL**

Counsel for Applicant:
Marisa Maclellan, OSLA

Counsel for Respondent:
Susan Maddox, ALS/OHRM
Cristiano Papile, ALS/OHRM

Introduction

1. The Applicant is a Heating, Ventilation and Air Conditioning Assistant at the GS-3 level at the United Nations Mission in Liberia (“UNMIL”).

2. On 27 December 2013, the UNMIL’s National Staff Association (NASA) staged a sit-in action outside the UNMIL base. The Applicant participated in the sit-in action, although the extent and nature of his participation is in dispute, and became the subject of an investigation.

3. The Applicant received a letter on 2 January 2014 informing him that he was the subject of an investigation into misconduct and that he was being placed on Administrative Leave with Pay (ALWP) for three months, or until the completion of the investigation.

4. By a letter dated 2 April 2014, the Applicant was informed of his placement on Administrative Leave without Pay (“ALWOP”) with immediate effect. On 30 June 2014, the Applicant received a third letter, dated 23 June 2014, informing him that his ALWOP was being extended for an additional three months from 2 July 2014, or until the completion of the disciplinary process, if any, whichever came earlier.

5. The Applicant requested management evaluation of the decision on 27 August 2014 and on the same day submitted to the Tribunal an Application for suspension of action of the decision to extend his placement on ALWOP.

6. The Tribunal issued Order 199 (NBI/2014) on 1 September 2014 granting the Applicant’s Application for suspension of action and ordering that the decision to deprive him of his salaries while he is on administrative leave be suspended until the management evaluation request he filed has been completed.

7. On 17 October 2014, he filed an Application with the Tribunal contesting the decision “to extend [his] Administrative Leave Without Pay from 14 July 2014, which also contains and renews the original decision to place [him] on administrative leave”. Also on 17 October, the Applicant filed a Motion, pursuant

to article 14 of the UNDT Rules of Procedure, praying for suspension of the contested decision pending the Tribunal's proceedings.

8. The Motion was served on the Respondent on 21 October 2014¹ with a deadline of 23 October for a reply to be filed.

9. On 22 October 2014 the Applicant filed a Motion to withdraw his earlier Motion for interim measures on the basis of a representation by the Administration that it does not intend to place him again on ALWOP pending the completion of proceedings. The Applicant prayed however that the Tribunal proceed with the underlying Application. On 23 October 2014, the Respondent filed a Reply to the Applicant's Motion to withdraw.

10. In light of the Applicant's request for withdrawal,

IT IS ACCORDINGLY ORDERED THAT:

11. The Applicant's Motion for withdrawal of his Motion for interim measures pending proceedings is hereby granted.

12. The matter of *Fahngon v. The Secretary General of the United Nations* registered as Case Number UNDT/NBI/2014/096 shall remain on the court record for adjudication before the Tribunal.

(Signed)

Judge Nkemdilim Izuako

Dated this 24th day of October 2014

¹ The Application and Motion were filed on Friday, 17 October 2014, after the closing hours of the UNDT Nairobi Registry. Monday, 20 October 2014, was an official United Nations holiday for the Nairobi duty station.

Entered in the Register on this 24th day of October 2014

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi