



Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

CAINE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for the Applicant:

Mohamed Abdou, OSLA

Counsel for the Respondent:

Jonathan Croft, ALS/OHRM

Susan Maddox, ALS/OHRM

Introduction

1. The Applicant is a former investigator, at the P-4 level, with the Office of Internal Oversight Services (OIOS) in Nairobi.
2. On 24 March 2017, he filed the current application for suspension of action challenging the contents of a letter dated 15 March 2017 by which he was informed that since he had resigned from the Organization at a time when a matter involving his alleged misconduct had not been resolved, a note attached to the letter would be placed in his official status file. Additionally, the Applicant was informed that the matter of his conduct could be referred to the World Bank, his current employer.
3. The application being an urgent one which sought interlocutory reliefs, was served on the Respondent on 27 March 2017¹ and he was given a deadline of 28 March 2017 within which to file a reply.
4. On 28 March 2017, the Respondent filed his reply and, on 29 March 2017 and before a determination could be made by the Tribunal; he filed additional information, namely, the response of the Management Evaluation Unit (MEU) to the Applicant's request for management evaluation.

Considerations

5. Under art. 2.2 of the UNDT Statute and art. 13.1 of the UNDT Rules of Procedure, the Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.

¹ The application for suspension of action was filed on Friday, 24 March 2017 after working hours, via the Court Case Management System (CCMS) and was served on the Respondent the following working day, Monday, 27 March 2017.

6. The documentary evidence exhibited by the Respondent in support of his reply shows that the Applicant received a response to his management evaluation request on 28 March 2017.

7. The Tribunal may only order suspension of a contested decision under art. 2.2 of the UNDT Statute where management evaluation is pending. In the present case, management evaluation has been completed and the response of the MEU communicated to the Applicant.

8. In these circumstances, the application for a suspension of action under art. 13.1 of the Rules of Procedure has been effectively discharged by the said completion of management evaluation and the communication of its outcome to the Applicant.

Orders

9. The Tribunal accordingly strikes out the matter of *Caine v. The Secretary-General of the United Nations*, Case No. UNDT/NBI/2017/026.

10. The Applicant's request for anonymity in this application is hereby refused.

(Signed)

Judge Nkemdilim Izuako

Dated this 31st day of March 2017

Entered in the Register on this 31st day of March 2017

(Signed)

Legal Officer, for
Abena Kwakye-Berko, Registrar, Nairobi