UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NBI/2017/067
Order No.:	149 (NBI/ 2018)
Date:	25 September 2018
Original:	English

Before: Judge Alexander W. Hunter, Jr.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

NJENGA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

DIRECTIONS ORDER

Counsel for the Applicant:

Brandon Gardner, OSLA

Counsel for the Respondent:

Isabel Martinez, UNEP

Camila Fuomene A. Nkwenti, UNEP

Introduction

1. The Applicant served as a Programme Assistant at the United Nations Environment Programme (UNEP) on a permanent appointment at the G6 level. She was retired from the Organisation on 31 August 2016.

Procedural History

2. On 11 August 2017, the Applicant filed an application with the United Nations Dispute Tribunal in Nairobi to challenge the Respondent's decision to not compensate her for "mistakenly forcing her to retire at 60" rather than at 62 years of age. The Applicant contends that this mistake – which the Respondent has admitted to in an email to the Applicant - has affected the calculation of her pension entitlements.

3. The Respondent filed his Reply to the application on 13 September 2017, arguing that the application should be dismissed both on receivability and substantive grounds.

4. On 3 September 2018, the Tribunal sought the Applicant's submissions in response to the Respondent's arguments on receivability. The Applicant filed these submissions on 5 September 2018.

DIRECTIONS

5. The Tribunal has reviewed the submissions of the parties and is of the firm view that this is a matter that can be peaceably and equitably resolved between the parties.

6. In the interest of efficient use of the Tribunal's resources and the expeditious conduct of proceedings, the Tribunal pursuant to articles 10.3 of the UNDT Statute

and 15.1 of the Rules of Procedure, and being mindful of paragraph 27 of General Assembly resolution 69/203 (Administration of justice at the United Nations), strongly urges the parties in this matter to consult and deliberate on having this matter informally resolved or mediated.[1]

7. To this end, the Tribunal **DIRECTS** the parties to jointly advise the Registry by **12 October 2018** on:

a) The likelihood of this matter being settled informally; OR

b) If an order formally referring the matter for mediation is necessary.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 25th day of September 2018

Entered in the Register on this 25th day of September 2018

(Signed)

Abena Kwakye-Berko, Registrar, UNDT,

[1] Paragraph 27 states: "*Recalls* the emphasis placed by the General Assembly on the resolution of disputes, and requests the Secretary-General to report on the practice of proactive case management by the judges of the United Nations Dispute Tribunal in the promotion and successful settlement of disputes within the formal system in his next report".