



Before: Judge Francis Belle
Registry: Nairobi
Registrar: René M. Vargas M., Officer-in-Charge

KIMANI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Nisha Valabhji, UNON

Camila Nkwenti, UNEP

Introduction

1. On 27 January 2024, the Applicant, a staff member at the G-6 level with the United Nations Environment Programme (“UNEP”) in Nairobi, filed an application requesting, under art. 2.2 of the Dispute Tribunal’s Statute and art. 13 of its Rules of Procedure, the suspension, pending management evaluation, of the decision to make salary deductions from February 2022.

Summary of relevant facts

2. On 3 February 2020, the Division of Healthcare Management and Occupational Safety and Health recommended that, effective 24 December 2019, the Applicant would receive a Special Education Grant (“SEG”) and Special Dependency Allowance for her son until 24 December 2022, when the case was due for review.

3. The Applicant submitted a request for SEG advance for the period from 6 October 2020 to 11 June 2021, which was approved on 20 November 2020 and disbursed to her.

4. On 19 October 2021, the Applicant submitted a claim for 2020-2021 SEG with the supporting documents for the advance she had previously received. The Staff Pay and Benefits Section, UNON, identified inconsistencies in her submissions and reached out to her for clarification.

5. On 25 February 2022, the first deduction from her salary for the recovery of SEG Advance took place.

6. On 28 August 2023, the Applicant requested management evaluation of the decision to recover the SEG advance.

7. On 15 September 2023, the Management Evaluation Unit (“MEU”) determined that the Applicant’s request for management evaluation should have been received by the MEU within 60 calendar days, therefore no later than sometime around the end of March 2023. Since she submitted request on 28 August

2023, well outside of the required timeframe, the MEU considered that her request for a management evaluation was time-barred and was therefore not receivable.

Consideration

8. Art. 2.2 of the Tribunal's Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision **during the pendency** of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage (bold emphasis added).

9. In the present case, MEU has already determined that the Applicant's request for a management evaluation was time-barred and was therefore not receivable. There is no management evaluation pending and, consequently, one of the mandatory requirements for the examination of applications for suspension of action is not met.

10. Additionally, pursuant to art. 8.3 of its Statute, the Dispute Tribunal shall not suspend or waive the deadlines for management evaluation.

Conclusion

11. In view of the foregoing, the application for suspension of action pending management evaluation is dismissed as not receivable.

(Signed)

Judge Francis Belle

Dated this 1st day of February 2024

Entered in the Register on this 1st day of February 2024

(Signed)

René M. Vargas M., Officer-in-Charge, Nairobi