



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2009/115

Order No.: 130

Date: 22 October 2009

Original: English

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**Before:** Judge Memooda Ebrahim-Carstens

**Registry:** New York

**Registrar:** Hafida Lahiouel

BLANC

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER TO FILE REPLY**

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**Counsel for applicant:**  
Self-represented

**Counsel for respondent:**  
Steven Dietrich, ALU

## **BACKGROUND**

1. On 27 August 2009, the United Nations Dispute Tribunal (Dispute Tribunal) received an application from the applicant to appeal a decision taken by the Chief Civilian Personnel Officer of the United Nations Stabilization Mission in Haiti (MINUSTAH) to stop paying the applicant's salary as of April 2009, and requesting the Dispute Tribunal to order the Personnel Staff of MINUSTAH to pay the applicant's salary.

2. On the same day, the Dispute Tribunal Registry sent an email to the applicant and the Administrative Law Unit. It acknowledged the receipt of the application, and instructed the applicant to copy the counsel of the respondent in all the communications with the Dispute Tribunal in relation to his case. It also informed the Administrative Law Unit that pursuant to Article 10 of the Rules of Procedure of the Dispute Tribunal (Rules) the respondent has 30 calendar days from the date of the receipt of the application to submit its reply, and that therefore the Dispute Tribunal expects to receive a reply by no later than 5:00 p.m., Monday, 28 September 2009. To date no reply to the application was filed by the respondent.

3. On 22 September 2009 the applicant sent to the Dispute Tribunal two emails with attachments of additional documents in support of his application. The Dispute Tribunal Registry forwarded these emails to the respondent on the following day and again instructed the applicant to copy the respondent on all submissions.

## **ANALYSIS**

4. The respondent failed to file a reply to the application before the Dispute Tribunal. According to Article 10(1) of the Rules:

[..] A respondent who has not submitted a reply within the requisite period shall not be entitled to take part in the proceedings, except with the permission of the Dispute Tribunal.

5. One of the possible consequences of a failure to reply is that the party that fails to file a reply or other response may be deemed to have admitted the allegations in his or her opponent's pleading, thus allowing the Dispute Tribunal to make a finding against the defaulting party.

6. Legal Counsel should bear in mind that they have a duty not only to their clients, but also to the Dispute Tribunal, to ensure that pleadings are properly and timeously filed and served. They should further keep in mind that the main purpose of pleadings is to identify and clarify the issues between the parties in a case, and to assist the court by defining the limits of an action. In order for Counsel to produce good pleadings he or she must be aware of certain basic requirements for bringing or defending an action, such as the existence of a cause of action, the competence of a party to bring or defend an action in relation to locus standi or legal standing, and whether a party has interest in bringing or defending the action.

7. As previously mentioned, Article 10(1) of the Rules determines that a respondent that fails to file a timely reply shall be barred from taking part in the proceedings, except upon permission from the Dispute Tribunal. The respondent in this case did not request to file a late reply or to take part in the proceedings before the Dispute Tribunal. However, the Rules empower a Judge to make any appropriate order or direction. Article 19 provides that:

The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

It is my considered view that the reply of the respondent is required for the fair and expeditious disposal of this case and to do justice to the parties.

**IT IS ORDERED THEREFORE THAT**

- A. The respondent shall file and serve a reply to the application by no later than 5:00 p.m., Monday, 26 October 2009;
- B. The applicant shall file and serve an answer, if any, to the reply by no later than 5:00 p.m., Thursday, 29 October 2009;
- C. Thereafter the instant matter shall be dealt with on the papers, unless the parties indicate otherwise by no later than 5:00 p.m., Friday, 30 October 2009.

*(Signed)*

Judge Memooda Ebrahim-Carstens

Dated this 22nd day of October 2009