



Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

OMWANDA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON RESPONDENT'S MOTION FOR
SUMMARY DISMISSAL**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALS/OHRM, UN Secretariat
Alister Cumming, ALS/OHRM, UN Secretariat

Introduction

1. On 18 October 2016, the Tribunal received an application from a former Security Officer with the United Nations Secretariat in New York, seeking suspension, pending management evaluation, of the decision “of UNHQ Payroll to recover USD5,040.20 from [his] Disability Funds”. The Applicant states that he was notified of the contested decision on 26 September 2016.

2. The Applicant attached a copy of an email that he sent on 14 October 2016 to the Management Evaluation Unit (“MEU”) at meu@un.org. The Applicant identifies this email as his request for management evaluation. This email states (emphasis added):

I hope you are well. On 26/09/2016 I received a mail from Mr. T. Wangay that the UN has sent a letter to UNJSPF to recover US\$5,040.20 from my disability funds. I acknowledge the overpayment but I had requested OHRM to recover the arrears from my termination indemnity. I have never received the termination indemnity and i am still unwell. This recovery from my disability funds will injure my already injured financial status and i request you to put it on hold until my termination indemnity is calculated properly and paid, then the money owed by me can be easily recovered. I joined the UN in 10/10/2005 as a security officer [United Nations Office in Nairobi] and moved to UNHQ as a security officer, DSS in 19/02/2008 until 04/02/2016 when my services were terminated due to medical reasons.

3. On 18 October 2016, the New York Registry transmitted the application for suspension of action to the Respondent, stating that the Respondent’s reply was to be filed by 1 p.m., 20 October 2016.

Respondent's motion dated 18 October 2016

4. Several hours later, also on 18 October 2016, the Respondent filed a motion for summary dismissal, stating that the MEU did not treat the Applicant's email of 14 October 2016 as a management evaluation request. The Respondent submits that the MEU informed the Applicant on 15 October 2016 that, if he wished to file a management evaluation request, he should complete a claim form. Accordingly, there was no pending management evaluation request and the application for suspension of action should be dismissed.

Consideration

5. The Appeals Tribunal stated in *Lemonnier* 2016-UNAT-679:

As to the manner in which a management evaluation request should be formulated, we make the following general observation. While the use of a specific "form" is not a mandatory requirement for there to be a valid management evaluation request, the use of the MEU's standard form is preferable as it is readily available to staff members, online and from the MEU. The fundamental point is that a staff member's request for management evaluation, however it is transmitted (including, for example, via a mobile device), must be an unambiguous written request which clearly identifies the staff member and the contested decision. As already stated, in the present case, the Appeals Tribunal was sufficiently satisfied that the content of the e-mails sent on Mr. Lemonnier's behalf between October and 2 December 2014 satisfied the requirement for an unambiguous request, particularly in light of the management response of 5 February 2015.

6. The Applicant's email of 14 October 2016 was addressed to the MEU and identified the Applicant and the contested decision. The email explained why the Applicant considered the contested decision to be unlawful. Any reasonable person would conclude that the purpose of the Applicant's email to

the MEU was to seek management evaluation of the contested decision. The Tribunal therefore finds that the requirement of pending management evaluation is satisfied. The Respondent's motion is dismissed.

IT IS ORDERED THAT:

7. The Respondent's motion for summary dismissal is dismissed.
8. The Respondent's reply to the application shall be filed by **1 p.m. on Thursday, 20 October 2016.**

(Signed)

Judge Ebrahim-Carstens

Dated this 19th day of October 2016