



Before: Judge Joelle Adda
Registry: New York
Registrar: Nerea Suero Fontecha

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

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

Counsel for Applicant:
Dorota Banaszewska, OSLA

Counsel for Respondent:
Nicole Wynn, ALD/OHR, UN Secretariat
Joseph Kavoi, ALD/OHR, UN Secretariat

Introduction

1. On 26 June 2020, the Applicant, a staff member with a peacekeeping mission, filed an application requesting urgent relief under art. 2.2 of the Dispute Tribunal's Statute and art. 13 of its Rules of Procedure seeking to suspend, pending management evaluation, the decisions to refuse to certify her sick leave request in advance and to separate her upon expiration of her fixed-term appointment on 30 June 2020. The application, which was initially filed with the Nairobi Registry, was transferred to New York Registry on the same day.

2. On the same day, by Order No. 107 (NY/2020), the Tribunal ordered the Respondent not to take any further steps regarding the contested decision to separate the Applicant on 30 June 2020 until the determination of the present suspension of action application, under *Villamorán* 2011-UNAT-160. The Tribunal further granted the Applicant's request for anonymity since this case concerns the Applicant's sensitive medical information.

3. On 30 June 2020, the Respondent filed a reply.

Factual background

4. The Applicant's fixed-term appointment with a peacekeeping mission was set to expire on 29 February 2020.

5. In February 2020, the Applicant requested sick leave for her planned surgery on 28 February 2020 and following treatment. The Medical Services certified the Applicant's sick leave for the period from 28 February 2020 to 30 April 2020.

6. Due to the Covid-19 outbreak, the Applicant's surgery was postponed until further notice, and on 6 April 2020, the Applicant informed the Medical Services of the delay of her surgery. In response, the Medical Services advised the Applicant that

she should resume her work considering that she did not undergo surgery as planned and that she should send a report after her surgery for the approval of sick leave.

7. On 25 April 2020, the Administration extended the Applicant's appointment until 30 June 2020 on humanitarian grounds.

8. On 18 June 2020, the Applicant submitted a sick leave certification request for the surgery planned on 30 June 2020. On 23 June 2020, the Administration advised the Applicant that her sick leave request cannot be approved in advance and that she should submit a detailed medical report after the surgery with a detailed treatment plan.

9. On 26 June 2020, the Applicant submitted the present suspension of action application.

10. On 29 June 2020, the Administration extended the Applicant's appointment until 7 July 2020.

Consideration

11. In the application, the Applicant contests the decision not to extend her appointment beyond 30 June 2020 as a result of the Administration's decision not to approve her sick leave request in advance.

12. In his reply, the Respondent submits that the application is moot since the Administration extended the Applicant's appointment until 7 July 2020 to support the Applicant's submission of sick leave certification request.

13. The Tribunal agrees with the Respondent that challenge to the decision not to extend the Applicant's appointment beyond 30 June 2020 is rendered moot due to its extension until 7 July 2020. The Tribunal considers that the application for suspension of the Administration's refusal to approve her sick leave request in advance is closely linked to the fact that her appointment was set to expire on the day of her surgery. Given that the appointment has now been extended to allow the Applicant to submit further supporting

documentation, the Tribunal finds that it is premature to rule on this matter at this point. Therefore, the Tribunal decides to reject the application.

IT IS ORDERED THAT:

14. In light of the above, the Tribunal rejects the application.

(Signed)

Judge Joelle Adda

Dated this 30th day of June 2020