



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

POSTICA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:
Thad M. Guyer

Counsel for Respondent:
Elizabeth Gall, ALD/OHR, UN Secretariat

Introduction

1. On 29 June 2020, the Applicant, a Senior Investigator in the Investigations Division, Office of Internal Oversight Services (“OIOS”) filed an application under art. 2.2 of the Dispute Tribunal’s Statute and art. 13 of its Rules of Procedure for the Tribunal to suspend, pending management evaluation, OIOS’ alleged decision “to not timely implement [United Nations Office in Nairobi] Medical Service’s written decision of 18 May 2020 finding the Applicant unfit to change duty stations from New York to Nairobi effective 1 July 2020”.

2. On the same date (on 29 June 2020), the Registry served the application on the Respondent, instructing him to file a reply by 2 July 2020. It was indicated that “[u]pon the instructions of the assigned Judge ... [f]or the Tribunal to seek and consider further information from the Respondent for the determination of the present suspension of action application, the Tribunal orders that the Respondent shall not undertake any further steps regarding the possible relocation the Applicant until the present suspension of action application has been adjudicated upon”.

3. On 1 July 2020 (at 10:53 p.m.), the Respondent filed his reply. He contends that the application for suspension of action is not receivable as no decision to reassign the Applicant has been taken.

Consideration

Legal framework

4. Under art. 2.2 of the Dispute Tribunal’s Statute and art. 13.1 of the Rules of Procedure, the Tribunal may suspend the implementation of a contested administrative decision during the pendency of management evaluation. This evidently requires that such a decision has been taken.

5. In the present case, the Respondent states that, “No decision, actual or implied, has been taken to implement a reassignment of the Applicant from New York to Nairobi given the medical determination that he is currently unfit to be redeployed to Nairobi”.

6. As the Respondent reaffirms that no decision has been taken as otherwise submitted by the Applicant, the Tribunal therefore finds that the application is not receivable.

Conclusion

7. The Tribunal rejects the application for suspension of action as not receivable.

(Signed)

Judge Joelle Adda

Dated this 2nd day of July 2020