



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/021
Order No.: 040 (NY/2022)
Date: 14 April 2022
Original: English

Before: Duty Judge
Registry: New York
Registrar: Nerea Suero Fontecha

DUEPPER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON MOTION FOR EXTENSION OF
TIME TO FILE AN APPLICATION**

Counsel for Applicant:
Monika Ona Bileris

Counsel for Respondent:
Clémentine Foizel, ALD/OHR, UN Secretariat

Introduction

1. On 12 April 2022, the Applicant filed a motion for extension of time to file an application with respect of the decision to reject her sick leave certificates and to recover her salary, requesting the Tribunal to extend the deadline for additional 60 days.
2. On 13 April 2022, the Respondent filed a reply to the Applicant's motion.

Factual background

3. By email dated 18 November 2021, the Applicant was notified of the contested decision.
4. On 23 and 28 December 2021, the Applicant requested a management evaluation of the contested decision.
5. By memorandum dated 21 January 2022, the Applicant received a response to her request for management evaluation.

Considerations

6. Article 8.3 of the Dispute Tribunal's Statute provides that the Dispute Tribunal "may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases". Article 7.5 of the Dispute Tribunal's Rules of Procedure reiterates that in exceptional cases an applicant may request a suspension, waiver or extension of the time limits for filing an application. Article 7.5 further states that any such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request.
7. In *Gelsei* 2020-UNAT-1035, the Appeals Tribunal held that if an applicant requests a suspension, waiver or extension of the time limits, then an applicant bears the burden to prove "any circumstances beyond [her/his] control that would have the

effect of preventing him from acting within the statutory time limits” (para. 30). The Appeals Tribunal stated that the circumstances should meet “the test of untypicality or unusualness” (para. 34).

8. In this case, the Applicant requests an extension of time on the ground that “she is currently attempting to settle the matter through discussions with [the Medical Director], however, discussions remain ongoing”.

9. In reply, the Respondent opposes the Applicant’s motion on the basis that the Applicant has not stated any exceptional circumstances warranting an extension. In particular, the Respondent submits that, contrary to the Applicant’s claim, the parties are not engaged in any ongoing settlement discussions. The Respondent further submits that the Dispute Tribunal’s Statute only provides for tolling of the filing deadline when the parties are engaged in formal mediation, which is not the case, and that informal discussions would not constitute exceptional circumstances justifying an extension.

10. Having reviewed the parties’ submissions, the Tribunal finds that the Applicant failed to present any exceptional circumstances that justify the extension of the time limit. The available evidence shows that there is no ongoing settlement discussion, let alone a formal mediation. Therefore, the Applicant’s request is rejected.

IT IS ORDERED THAT:

11. The Applicant’s motion for extension of time to file an application is rejected.

(Signed)

Judge Teresa Bravo

Dated this 14th day of April 2022