



Before: Duty Judge
Registry: New York
Registrar: Isaac Endeley

SOHIER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

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

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Lucienne Pierre, AS/ALD/OHR/UN Secretariat

Introduction

1. On 29 March 2023, the Applicant, a former Legal Officer with the Office of Legal Affairs (“OLA”), filed a motion for extension of time to file an application in respect of the decision not to renew her fixed-term appointment beyond 23 December 2022. The deadline for filing the application falls on 3 April 2023, but the Applicant requests the Tribunal to grant her “an extension of time of 90 additional calendar days from 3 April 2023.” She submits that due to her health condition, she is currently “under treatment, including medication” and on certified sick leave with an estimated return-to-work date of 1 June 2023. In support of her motion, the Applicant has submitted statements from her physician.

2. On 30 March 2023, the Respondent filed a reply opposing the motion and arguing that the Applicant has not set out any exceptional circumstances warranting an extension of the time-limit to file an application. The Respondent further argues that exceptional circumstances exist only when there is an absolute impossibility for the filing party to file within the statutory deadlines.

Considerations

3. Pursuant to article 8.3 of the Dispute Tribunal’s Statute, the 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”.

4. Article 7.5 of the Dispute Tribunal’s Rules of Procedure also provides that, in exceptional cases, an applicant may submit a written request to the Tribunal seeking 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.

5. Furthermore, under article 19 of the UNDT Rules of Procedure, the 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”.

6. In *Gelsei*, 2020-UNAT-1035, the Appeals Tribunal held that if an applicant requests a suspension, waiver or extension of the time limits, then the applicant bears the burden of proof to establish “any circumstances beyond his control that would have the effect of preventing him from acting within the statutory time limits” (para. 30). The Appeals Tribunal also noted that while the circumstances of the request should meet “the test of untypicality or unusualness” (para. 34), the Dispute Tribunal, in the exercise of its discretion, may not deny the request at the onset without compelling reasons, “because it affects access to justice” (para. 37).

7. In this case, the Applicant requests an extension of time on the grounds that she is currently undergoing medical treatment and is on certified sick leave. While opposing the motion, the Respondent nonetheless concedes that the Applicant has in fact been granted certified sick leave until 30 April 2023.

8. Having reviewed the parties’ submissions, the Tribunal finds that the Applicant has provided sufficient information to justify the granting of an extension of the deadline to file her application. Moreover, the Tribunal considers that the Respondent will not be prejudiced by such extension of the deadline. However, the Tribunal is not persuaded that the requested extension of 90 calendar days is required in this case. Since the Applicant will be on certified sick leave until 30 April 2023, the Tribunal will grant her two additional weeks beyond that date.

IT IS ORDERED THAT:

9. The Applicant’s motion for extension of time to file an application is partially granted.

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Order No. 027 (NY/2023)

10. By **3:00 p.m. on Monday, 15 May 2023**, the Applicant shall file her application contesting the decision not to renew her fixed-term appointment.

(Signed)

Judge Joelle Adda

Dated this 3rd day of April 2023