



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/024
Order No.: 068 (NY/2024)
Date: 19 June 2024
Original: English

Before: Judge Margaret Tibulya

Registry: New York

Registrar: Isaac Endeley

HUNT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Steven Dietrich, DAS/ALD/OHR UN Secretariat
Miryoung An, DAS/ALD/OHR, UN Secretariat

Introduction

1. By Order No. 063 (NY/2024) dated 4 June 2024, the Tribunal, *inter alia*, ordered (a) the Complainant to provide her testimony on 24 June 2024, and (b) the Respondent to disclose certain documentation upon the request of the Applicant.

2. On 6 June 2024, the Respondent filed a motion to reschedule the testimony of the Complainant.

3. On 10 June 2024, the Respondent filed a submission in which he explained that he could not disclose the relevant documentation requested by the Applicant. Later the same date, the Applicant filed a response in which he objected thereto.

Consideration

Rescheduling the hearing of the Complainant

4. In the Respondent's 6 June 2024 submission, he explains that the Complainant is not available to provide her testimony on 24 June 2024 as otherwise set out in Order No. 063 (NY/2024) due to annual leave plans and a possibly unstable internet connection. He therefore proposes that the Complainant should instead be heard during the week of 8 – 12 July 2024.

5. The Tribunal will grant the Respondent's request. The Complainant is therefore to be heard on Monday, 8 July 2024.

The Respondent's disclosure of certain documentation requested by the Applicant

6. The Applicant has requested the Respondent to disclose, by 10 June 2024: (a) "The special review/audit report carried out in March 2020 by [the Office of Internal Oversight Services ("OIOS")]/Audit"; (b) "The Draft Governance Audit Report"; and (c) "Any interviews by OIOS of the former [Representative of the Secretary-General's] Special Assistant [the Complainant] (in particular the one given on 16 June 2022)".

7. In the Respondent's 10 June 2024 submission, he, in essence, submits that he cannot disclose the requested documentation because OIOS has refused to make the relevant documentation available due to the confidentiality of the documentation. He further states that he has no means of compelling OIOS to do so due to the independent nature of OIOS's operations under its mandate. Finally, he submits that no adverse inference should be drawn from OIOS refusing to disclose the documentation in the present case. Appended to his submissions, the Respondent attaches an Interoffice Memorandum dated 5 June 2024 in which the Investigations Division Director of OIOS explains her reasons for the non-disclosure decision.

8. In the Applicant's 10 June 2024 submission, when objecting to the Respondent's refusal to disclose the requested documentation, he contends that OIOS's rationale is "manufactured" and "misplaced" and should be rejected. He requests that (a) an adverse inference should indeed be drawn from the Respondent's failure to disclose the relevant documentation, and (b) the Respondent should be sanctioned for abuse of process for failing to comply with Order No. 063 (NY/2024).

9. To resolve the impasse, the Tribunal will call the parties to a Case Management Discussion ("CMD") before the hearing begins. To facilitate this, the Respondent is to ensure that a representative from OIOS is present at the CMD with the necessary decision-making power to explain its non-disclosure decision and make an immediate decision regarding the possible disclosure, or not, of the relevant documentation.

10. In light of the above,

IT IS ORDERED THAT:

11. The Complainant is to provide her testimony at 10:00 a.m. on **Monday, 8 July 2024**. The parties will thereafter be offered the opportunity to present their closing statements, noting that they will subsequently also be ordered to file written closing statements, and the Tribunal will close the proceedings. **All other aspects of the previously established hearing will remain unchanged.**

Case No. UNDT/NY/2023/024

Order No. 068 (NY/2024)

12. The parties are to attend a CMD at **9:30 a.m. on Thursday, 20 June 2024** via MS Teams at which a representative of OIOS is also to be present.

(Signed)

Judge Margaret Tibulya

Dated this 19th day of June 2024

Entered in the Register on this 19th day of June 2024

(Signed)

Isaac Endeley, Registrar, New York