



Judgment No. 2020-UNAT-1019

Counsel for Houran et al:

Milad Moussa Chebli

Counsel for Commissioner-General:

Rachel Evers

JUDGE KANWALDEEP SANDHU, PRESIDING.

1. The Appellants¹ were staff members employed by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency) as instr()Tj-2e72 9 -0 0 c 0. 1 79.2 7

8. By e-mails dated 15 and 27 February 20

14. After four months had passed, they say the Administration surprised everyone by stopping payment of these hours.

15.

Considerations

21. Staff Rule 111.4 of UNRWA’s Area Staff Rules (Area Staff Rules) provides that pursuant to Article 2(10) of the United Nations Appeals Tribunal Statute, the United Nations Appeals Tribunal (the Appeals Tribunal) is competent to hear and pass judgment on an appeal that asserts that the UNRWA Dispute Tribunal committed errors of fact, law, procedure or jurisdiction in its judgment.

22. An appellant has the burden to demonstrate that the Dispute Tribunal Judgment is defective and identify the alleged errors. On appeal, a party cannot merely repeat arguments that did not succeed before the UNRWA Dispute Tribunal. More is required. An appellant must demonstrate that the UNRWA Dispute Tribunal has committed an error of fact or law warranting intervention by this Tribunal.⁴

23. Here, the Appellants fail to specifically identify the errors allegedly committed by the UNRWA Dispute Tribunal and therefore, the appeals are defective for that reason. However, we have previously recognized that if an appellant is not legally represented, as is the case here, some latitude may be allowed in the interests of justice.⁵

24. Therefore, although the Appellants have not clearly formulated the grounds of appeal, the main issue on appeal for our consideration is whether the UNRWA Dispute Tribunal erred in law or fact resulting in a manifesting unreasonable decision when it concluded the applications were not receivable because the Appellants did not file a timely request for review of the impugned administrative decision according to the applicable staff rules and regulations.

Receivability of Appellants' Applications

more than a year

33. In determining the “decisive moment of notification” for the purposes of the Area Staff Rule, the Appeals Tribunal

meetings other than the verbal statement given to the Appellants that they would not receive the compensation for the casual hours.

38. Nevertheless, we find that any error on a finding of fact of when the Appellants received notification of the administrative decision, did not result in a manifestly unreasonable decision. Even if we accept that the discussions in May 2018 meetings did not objectively amount to “notification” as required by the Area Staff Rule, the Appellants should have reasonably known of the administrative decision when they failed to receive a response to their subsequent requests for compensation in February 2019. This failure or refusal to respond could arguably be an implied administrative decision which would trigger the time limits for formal review of that decision. However, the Appellants have not made this claim in their applications or appeal and the parties have not made any submissions on this issue.

39. Whether the administrative decision is the expressed verbal communication of the denial to provide compensation or is implied from the refusal or failure to respond, the Appellants did not meet the Area Staff Rule requirement that a request for review of the administrative decision be made within 60 days.

40. In the alternative, the UNRWA Dispute Tribunal held that none of the Appellants submitted an identifiable request for decision review. In the alternative, assuming *arguendo* that the 2 May 2019 letter to the Director was a request for decision review, it was still outside the 60-day deadline for a request for review.

(B) in the case of staff members of Headquarters, to the Director of Human Resources.

41. There is no requirement for a particular form for a request for decision review however, the fundamental requirement is that a staff member's request "O. Twi0.425 0 Td25"r

45. The UNRWA Dispute Tribunal did not err in fact or law in dismissing the applications.

Judgment

46. The appeal is dismissed.

Original and Authoritative Version: English

Dated this 26th day of June 2020.

(Signed)

Judge Sandhu, Presiding
Vancouver, Canada

(Signed)

Judge Halfeld
Bournemouth, United Kingdom

(Signed)

Judge Neven
Brussels, Belgium

Entered in the Register on this 23rd day of July 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar