



UNITED NATIONS DISPUTE TRIBUNAL

Judgment No.: UNDT/2016/031

Date: 20 April 2016

Original: English

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**Before:** Judge Coral Shaw

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko [(A)-2(b)-11(e)-3(n)31(a)-3( )-5(K)-2(w)-2(a)-3(k)-11(y)31((k)q BT [(



We have received the final calculation of your termination indemnity. Please see below for your information.

Should you require further clarification please do not hesitate to let us know.

8. The Applicant immediately responded disputing the decision. He referred to the table that had accompanied the letter from the Human Resources Office, which he said showed he had four years of service with ONUCI rather than nine. He set out the history of his recruitment. He noted that he had never resigned and his contract was never terminated in any way until his division was shut down. He said he believed that the nine years he had spent there represented an achievement that should be factored into the calculations of his termination indemnities.

9. On 20 November 2014, the Human Resources O

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20. The promise of the Human Resources Section to verify the inconsistencies and respond to him with an explanation fully supports the assertion that the decision was not final. He did not believe that the decision was final.

21. The Respondent took more than four months to respond to him. If the Respondent had provided an adequate explanation within a reasonable time he could have exercised his rights within the prescribed period.

22. The reasoning of the Management Evaluation Unit (MEU) promotes a culture of litigation within the organization. MEU essentially expects staff members to initiate administrative and judicial proceedings the moment they receive the slightest communication, without attempting to resolve misunderstandings directly with Human Resources.

23. The Applicant did not receive an appealable decision until 3 April 2015 when the final amount of his termination indemnity was communicated to him. His request for management evaluation was made before the expiry of 60 days from that decision and was therefore in time.

24. The Applicant submits that the decision in *Robineau* 2012-UNDT-175 concerned similar facts and should be applied idris te13(a)-3(t)-20n] TJ

by the Office of the United Nations Ombudsman. There is no provision to waive this deadline.

27. Staff rule 11.2(a) explicitly requires a staff member wishing to formally contest a decision to request management evaluation first. The Tribunal does not accept the submission of the Applicant that in this way the MEU is promoting a culture of litigation. To the contrary, as stated in *Caldarone* UNDT/2009/035, the role of management evaluation in the internal justice system is to allow management the opportunity to rectify an erroneous, arbitrary or unfair decision, as well as to provide a staff member the opport

referred in the judgment to advice given by the Office of Human Resources Management to the Applicant that he could await the outcome

Entered in the Register on this 20<sup>th</sup> day of April 2016

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi