Case No.:	UNDT/NBI/2015/093
Judgment No.:	UNDT/2016/045
Date:	27 April 2016
Original:	English

Before:

Registry:

Registrar:

Counsel
George

8. On 21 July 1999, the Applicant was reappointed to serve with the United Nations Interim Administ

12.

access to his United Nations email via Lotus Notes and reminded them that the issuance of his certificate of service and travel authorization, that were required for his repatriation to the United States, were still outstanding. According to the Applicant, he did not receive a response to this email.

24. By a memorandum dated 15 June 2015, which was sent to the two email addresses supplied by the Applicant, MEU rejected the Applicant's request for management evaluation dated 8 September 2014. The reason given by MEU for the rejection was that from the provisions of ST/AI/2000/19 (Visa status of non-United States staff members serving in the United States, members of their households and their household employees, and staff members seeking or holding permanent resident status in the United States), he did not have a legal right to retain the G-4 visa status acquired during his appointment in United N

a. The Applicant requested management evaluation on 9 September with further submissions on 20 October 2014. The relevant response period under staff rule 11.2(d) was 45 days from 20 October (4 December 2014). In the absence of a response from MEU by 4 December, the Applicant should have filed an application to the Dispute Tribunal, pursuant to article 8.1(i)(b) of the UNDT Statute, by 4 March 2015.

b. MEU's response of 15 June 2015 had no impact on the deadline for seeking recourse before the Dispute Tribunal because the time limit for filing the Application had already expired when it was issued. MEU's response did not reset the time limit.

c. The Applicant has not provided any evidence to support his belief that

misstated his claim as a refusal by the Administration to effect a G-4 visa so as to enable him to return to the United States in that status. However, what he is actually contesting is the refusal of the Organization to provide the necessary travel authorization and corresponding documentation that would allow him to apply for and receive the necessary approval from the United States authorities to return to his place of recruitment.

38. As to the issue of receivability *ratione materiae*, the Applicant contends that the failure to respond to his request is itself an appealable administrative decision. He is aware that the issuance of United States visas is outside the purview of the Organization and is therefore not contesting the refusal of the Organization to request a G-4 visa. He has requested travel authorization with an accompanying letter to the United States authorities acknowledging that his repatriation is official travel in accordance with his terms of employment so that he may proceed to make the necessary arrangements, including an appropriate United States visa. Without these documents, he is left stranded in his former duty station and denied an entitlement guaranteed by his contract.

39. The Applicant contends that since September 2014, he has been unable to complete his repatriation because the Organization has refused to issue the necessary documentation required by the United Nation Staff R3(e)-16(s)8(s)8(a)3(r)-27(y)] TJ ET Q q BT

Considerations

What is the contested administrative decision?

41. The Applicant made two requests for management evaluation. The Respondent maintains that there was one administrative decision, the Applicant

authorization so that [he] may proceed with [his] relocation from Sudan and finalize [his] separation from service."

48.

(i) In cases where a management evaluation of the contested decision is required:

a. Within 90 calendar days of the applicant's receipt of the

59. In summary, the date of the contested decision was 3 September 2014. The second alleged contested decision and subsequent request for management evaluation was a reiteration of the first and did not "reset the clock". In the face of the delayed response to the request for management evaluation

64. The Administration reitera

Entered in the Register on this 25th day of April 2016

(Signed)

Abena Kwakye Berko, Registrar, Nairobi