
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2016/065

Judgment No.: UNDT/2017/078

Date: 28 September 2017

Original: English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Morten Albert Michelsen, Officer-in-Charge

BUCKLEY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Steven Dietrich, ALS/OHRM, UN Secretariat

Introduction

1. The Applicant, a Chief, Supply Chain Management Service at the D-1, step 3, level in the United Nations Multidimensional Stabilization Mission in the Central

recommendation that his claim for loss of some personal effects in connection with an emergency evacuation of staff from Camp Faouar in Syria be denied. This recommendation was subsequently endorsed by the Controller of the United Nations.

2. As remedies, the Applicant seeks: (a) rescission of the recommendations of the UNCB and annulment of the decision of the Controller denying settlement of his claim; (b) an award of USD7,490 for the depreciated value of some lost items, including an iPad and a wristwatch; (c) -base salary as restitution for incurred financial hardship; and (d) a written apology from UNCB

in its allegedly unsubstantiated findings.

3. The Respondent claims that the application is without merit and submits that the Applicant should only receive USD5,390 in compensation, and nothing for his iPad and wristwatch.

Facts

4. The following documentation on record.

5. After having served with the Organization since November 1984, at the material time, the Applicant served as Chief of the Integrated Support Services at the P-Syria.

6. On 15 September 2014, upon the order of the Head of Mission and Force Commander, all staff in Camp Faouar in Syria, including the Applicant, were

was among the last to leave Camp Faouar before it was officially handed over to the Syrian authorities. Furthermore, it is uncontested that the Applicant did not manage to collect and take with him any of his personal effects, aside from his so-

9. On 4 November 2014, the Applicant filed of personal effects as a result of abandonment of Camp Farouar (UNDOF with the Chief of Mission Support at UNDOF . The Applicant estimated his loss at USD14,700 and, *inter alia*, stated that:

In conformance with the provisions of Staff Rule 106.5 and Administrative Instruction ST/AI/149/Rev. 4 of 14 April 1993, I am herewith submitting a Claim for compensation for loss of personal effects as a result of abandonment of same in Camp Faouar (UNDOF Headquarters) on the morning of 15 September 2014 following receipt of instructions to abandon the facility from the Force Commander/Head of Mission and Designated Official, [name redacted].

The loss of personal effects are directly attributable to the performance of official duties, due to my presence in accordance with an assignment by the United Nations at UNDOF Headquarters (Camp Faouar), which is an area designated by the Department of Safety and Security as hazardous. The loss of personal effects was a direct result of fighting (hostile action) on the part of Anti Government Armed Groups (AGAEs) and Syrian Arab Armed Forces (SAAF), which threatened the presence and safety and security of United Nations personnel, and which ultimately led to issuance of instruction by the Designated Official to abandon the facility on the morning of 15 September 2014.

Of note, a small team of Mission Support Personnel had stayed in Camp Faouar - under my supervision - to organize the transfer of UN owned property and equipment from the B-Side to the A-side. This task was ongoing from Friday 12 September 2014, and as of the morning of 15 September 2014 our team had organized the transfer of critical equipment, including: (1) Financial, HR and Procurement

(containing Communications, IT, Engineering and Supply Equipment); (3) over 150 vehicles of various types, including light utility vehicles, trucks, trailers, light armoured vehicles and armoured

which he referred to his previous claim of 4 November 2014 filed with the UNDOF CMS.

12. According to an interoffice memorandum dated 8 June 2016 from the UNCB Secretary to the UNDOF Chief of Human Resources, the UNCB considered the Applith meeting held on 24 March 2016, together with the claims of three other staff members who had evacuated from Camp Faouar. In this interoffice memorandum, the UNCB Secretary notes, after having first described one im in much detail, that all claims were denied as the UNCB, *inter alia*, made the following

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Procedural history

17. On 9 September 2016, the Applicant filed the application.

18. The case was registered with the Dispute Tribunal in Nairobi and assigned to Judge Klonowiecka-Milart.

19. On 18 October 2016, having received a response from the USG/DM accepting the recommendations of the MEU, the Applicant submitted some additional documents in evidence.

20. On 21 October 2016, the Respondent filed his reply.

21. By Order No. 465 (NBI/2016) dated 26 October 2016, Judge Klonowiecka-Milart ordered the parties to express their views, if any, on transferring the case to the Dispute Tribunal in New York. The Dispute Tribunal in Nairobi had selected the case

Plenary in May

2016 where, to balance the Dispute , it was decided to transfer ten cases to from Nairobi to New York. It appears neither party rt

25. At the CMD on 21 June 2017, the Applicant participated via Skype from Ireland where he was on leave, while Mr. Dietrich for the Respondent appeared personally in court in New York. The Applicant stated that he had another matter (filed in June 2016, Case No. UNDT/NY/2016/057) pending before the Dispute Tribunal in which he referred to matters touching on the instant application. He explained that he referred to these matters in the previous case simply to show the to deal with matters in a timely manner and to

28. On 13 July 2017, the Applicant filed his response to the aforesaid order, confirming the unsuccessful informal resolution attempts. The Applicant also invited

29. By Order No. 131 (NY/2017) dated 13 July 2017, the Tribunal ordered the

30. On 24 July 2017, the Respondent filed his response to Order No. 131 (NY/2017).

31. On 25 July 2017, the App
July 2017 response.

32. Whilst, in fairness to all parties, it is the practice of the Dispute Tribunal to deal with cases in chronological order of filing, the Tribunal ~~PPB88DA~~ ted2(J)-10(ul)-3111(ba)3(id)9

rights as well as caused him anxiety and stress. This indicated a lack of dealing in good faith with the Applicant

a.

ST/AI/149/Rev.4, sec. 4 (exclusion

2011.

Applic the decision to offer the Applicant USD5,390 in compensation based on the depreciated value of the lost items, excluding the iPad and his wristwatch, is appropriate;

d. There was no undue delay or lack of good faith and fair dealing. No specified timelines for processing claims for loss of personal effects exists. The Claim Review Board of after receiving it. However, because the recommended amount of compensation exceeded its authority, there was some delay of about seven months in forwarding the claim to the UNCB. Once the UNCB received the

When judging the validit

on sec. 8 of ST/AI/149/Rev.4, holding that an iPad and a wristwatch was not reasonably required by the staff member for day-to-day life under the conditions existing at the duty station, could not be considered reasonable. In the submissions to the Dispute Tribunal, the Respondent does not alter this finding of the USG/DM and the MEU, and indeed attributes it to the Secretary-General, the Respondent in this case. T

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claim by the UNCB and Controller, events were overtaken by the U acceptance of the MEU recommendations, thus reversing the contested decision in part. The only objection by the Respondent to the claim, and the only matter for consideration before the Tribunal, is whether the Applicant had been negligent in not securing the items in his run bag. The Tribunal has found he was not so negligent, and the denial of his claim was not reasonable. Therefore, the Applicant is entitled to compensation for this property.

The monetary value of the iPad and the wristwatch

50. The contested amount for the iPad and the wristwatch is USD2,100 as the Respondent has conceded to pay USD5,390 for the remaining items that the Applicant lost in Camp Faouar. Regarding the amount of USD2,100, the Respondent makes no contentions denying this valuation; on the contrary, in his reply, he submits that the UNCB stated that the iPad had a value of USD1,000 and the wristwatch had a value of USD2,000; these also being the valuations provided by the Applicant on the itemized inventory for insurance coverage. The Applicant has indicated that he is prepared to accept the sum of USD2,100 as a depreciated value and

evidence has been proffered, the Tribunal must reject this claim for compensation
(see, for instance,

