Before:

Nairobi

Registrar: Abena Kwakye-Berko

AVRAMOSKI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

Introduction

1. On 27 September 2018, the Applicant, a Budget and Finance Assistant with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), filed an application before the Dispute Tribunal contesting the refusal by the Field Personnel Division (FPD) of the Department of Field Support (DFS)
of service in Umoja to reflect her [entry on duty] (EOD) UN date as 28th February 2000 and not 2 September 2008

2. The Respondent filed a reply on 1 November 2018 in which it was argued that the application is not receivable *ratione materiae* on two grounds:

a. The change to the EOD date is not an administrative decision

11. On 12 March 2018, the Applicant exchanged a series of emails with the Regional Service Centre Entebbe (RSCE) claiming that her EOD date was incorrect and requesting that it be changed from 2 September 2008 to 28 February 2000. She was informed that her EOD was correctly reset as 2 September 2008 due to her separation from UNMIS and her reappointment to UNLB.[9]

12. On 12 and 13 March 2018, the Applicant raised the matter of her EOD date with the MINUSCA Chief Human Resources Officer (CHRO), who informed ent Support Unit (CSU) would take the lead in responding to her and that her case would be reviewed by the DFS/FPD.[10]

13. On 11 April 2018, MINUSCA Human Resources forwarded the Applicant a 10 April 2018 email from FPD, which reiterated that her EOD date was correctly reset to 2 September 2008 following her reappointment to UNLB in the following terms:

> QUAIMS and have the following observation. It appears that the EOD in Umoja correctly reflects the last separation and reappointment based on Staff Rules 4.17. Of more importance is the fact that this has no impact on her current entitlements and rights. The change in EOD did not identify any entitlements which have been or could be affected negatively by a change of EOD.
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> -employed under conditions established by the Secretary-General shall be given a new appointment unless he or she is reinstated under staff rule 4.18.
>
> (b) The terms of the new appointment shall be fully applicable without regard to any period of former service. When a staff member is re-employed under the present rule, the service shall not be considered as continuous between the
>
> We note that the reset in her EOD date to 02 September 2008 reflected following separation without break-in-service and reappointment from UNMIS to UNLB. This was the standard procedure prior to the HR Transition effective 01 July 2009, where a move from non-family to family duty station or vice versa triggered separation and reappointment without break-in-service.

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14. By letter dated 26 May 2018, the Applicant sought management evaluation of the decision to put her EOD as 2 September 2008 and not 28 February 2000.

Submissions

Receivability

15. The Respondent contention is that the application is not receivable *ratione materiae*

16. The Applicant has not shown that the change in her EOD has produced any legal consequences for her appointment and entitlements. The

continuous if the staff member is reinstated. If a former staff member is reinstated, it shall be expressly stipulated in his or her letter of appointment.

24. The same idea is currently expressed under section 3.14 of ST/AI/2013/1 (Administration of fixed-term appointments). A former staff member who is re-employed under staff rule 4.17 shall be given a new appointment unless he or she is reinstated under staff rule 4.18.

25. Under section 2.5.4.2 of the On-boarding of Staff for United Nations peace operations Standard Operating Procedure (On-boarding SOP) in effect when the Applicant moved to UNLB, a staff member who moved from a 100-series Special mission to a 100-series Established mission had to be reappointed. A Special mission was defined as a duty station where mission subsistence allowance is payable, and where the assignment of a staff member on mission detail does not entail a change of official duty station. Special missions are non-family duty stations whereas an Established mission was defined as a duty station where assignments of one year or longer give rise to an assignment grant. Current operations which are defined as established missions are UNDOF, UNFICYP, UNIFIL, UNLB, UNMOGIP, UNSCO, and UNTSO.

26. Consistent with the On-boarding SOP, in 2005 the Applicant was reassigned rather than reappointed from UNMISET, a Special mission, to UNMIS, also a Special mission.

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28. The Applicant served on a 100-series contract with UNMIS. The

with UNMIS. She then moved from a Special mission, UNMIS, to an Established mission, UNLB. She therefore was reappointed with UNLB. Consequently, the

had been reappointed in 2008. The choice of reappointment as modality of the clearly borne out by personnel actions of separation and reappointment and acknowledged by her in the memorandum of understanding with respect to annual leave from 2008.