
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2015/031

Order No.: 055 (NBI/2015)

Date: 10 February 2015

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

FEENEY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Steven Dietrich, ALS/OHRM

Nicole Wynn, ALS/OHRM

Introduction

1. The Applicant is the Chief

7. No approval for a four-week R&R cycle was authorized for Camp Ziouani in UNDOF or locations west of the so-called Alpha Line in Syria.

8. On 9 January 2015, the Chief, Policy and Conditions of Service section of the Office of Human Resources Management (OHRM) disseminated to headquarters offices and Chiefs of Administration in the field, the list of duty stations which the ICSC had approved for an R&R entitlement effective 1 January 2015. An updated list was issued on 14 January 2015. By facsimile dated 16 January 2015, the Director, Field Personnel Division of the Department of Field Services (FPD/DFS) further disseminated the list to all field missions. The most recent list was issued by OHRM on 30 January 2015

9. The Applicant received notification of the R&R designation on 21 January 2015.

10. On 29 January 2015, he requested for a management evaluation of the decisions abolishing R&R entitlements and the “refusal of Danger Pay on A-side”.

Rn-

from any entity in the UN common system. Its decisions promulgated under signature of the Chairman “shall be applied by each organization with effect from a date to be determined by the Commission”.

d. Contrary to the Applicant’s contention, OHRM did not take the contested decision. The decision whether to approve a duty station for a four-week R&R cycle is solely within the purview of the ICSC. The Administration is obliged to implement that decision without the exercise of any discretion.

e. The Dispute Tribunal in the case of Obino UNDT-2013-008 found that decisions of the ICSC are not to be imputed to the Secretary-General and, therefore, the Tribunal lacks jurisdiction to review such decisions. Upholding the Dispute Tribunal judgment, the United Nations Appeals Tribunal (the Appeals Tribunal), in Obino 2014-UNAT-405, also recognized that the ICSC takes decisions with respect to hardship entitlements such as a four-week R&R cycle and that the Dispute Tribunal is not competent to review such decisions.

Considerations

12. The Respondent submits that the Applicant is not challenging an administrative decision within the meaning of art. 2.1(a) of the Tribunal’s Statute and as such, the Application is not receivable.

13. The Respondent further submits that the Dispute Tribunal lacks

administrative issuances in force at the time of alleged noncompliance [...].

15. The current Application purports to challenge the decision of the ICSC not to approve a four-

Entered in the Register on this 10th day of February 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi