
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/126
Order No.: 086 (NBI/2020)
Date: 5 May 2020
Original: English

Before: Judge Eleanor Donaldson-Honeywell
Registry: Nairobi
Registrar: Abena Kwakye-Berko

LUCCHINI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:
George Irving

Counsel for the Respondent:
Susan Maddox, AAS/ALD/OHR, UN Secretariat
Elizabeth Gall, AAS/ALD/OHR, UN Secretariat

Introduction and Procedural History

1. The Applicant served as a Security Officer at the United Nations Multidimensional Integrated Stabilisation Mission in Mali (“MINUSMA”). He held a fixed term appointment at the FS-4 level and was based in Bamako.

2. On 21 December 2018, the Applicant challenged the Respondent’s decision to separate him from service with compensation *in lieu* of notice without termination indemnity in accordance with staff rule 10.2(a)(viii). It is the Applicant’s case that the facts of the allegations on which the impugned decision was made were not established so that there is no basis for a finding of misconduct; that due process was violated and the resulting sanction was disproportionate.

3. The Respondent filed his reply to the application on 25 January 2019.

4. The Respondent submits that the impugned decision was based on clear and convincing evidence that the Applicant’s conduct amounted to serious misconduct in violation of staff regulation 1.2(b) and (f), staff rule 1.2(e) and section 3.1 of ST/SGB/2003/13 on the Special Measures for Protection from Sexual Exploitation and Abuse.

5. The Tribunal held a case management discussion (“CMD” on 4 May 2020, with counsel for both parties and the applicant present by videolink.

The Discussion

6. Both parties informed the Tribunal that they are amenable to this matter being resolved

7. There was some discussion on whether an oral hearing would be necessary and the mechanics of holding a hearing under the present circumstances of COVID-19 Pandemic travel restrictions. The parties seem to be in agreement that the nature of the evidence in this case lends itself to being adjudicated on the papers. The Respondent will disclose the complainant's employment records, and the Applicant will be given time to file his submissions in response.

8. The Tribunal reminded the parties that the timelines set in this case must be strictly adhered to given the length of the undersigned Judge's deployment.

Orders

9. The Tribunal makes the following Orders:

- a. The Respondent will disclose the complainant's employment records by **Friday, 8 May 2020;**
- b. The Applicant will file his rejoinder by **Monday, 11 May 2020;**
- c. The parties will jointly submit on the progress of their *inter partes* discussions **Friday, 15 May 2020.**

10. The Tribunal commends the parties for their willingness to engage in discussions for resolution of this matter outside of the adversarial process.

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 5th day of May 2020

Entered in the Register on this 5th day of May 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi