
UNITED NATIONS DISPUTE TRIBUNAL

Case Nos: UNDT/NE/2021/100

Order No: 099(NBT/2022)

Date: 3 August 2022

Original: English

Judge Margaret Tibulya

Nairobi

1 On 8 July 2022, the Tribunal held a case management discussion (“CMD”) in this matter. During the CMD, the Tribunal requested the Applicant to submit his proposed list of witnesses.

2 On 12 July 2022, the Applicant submitted a list of 14 witnesses including the victims, officers of the Conduct and Discipline Team, investigators from the Office of Internal Oversight Services and other persons that may have witnessed the events leading up to this case.

3 On 27 July 2022, by Order No 080 (NEI/2022), the Tribunal allowed the Applicant to call only five witnesses. The Tribunal determined that since most of the Applicant’s proposed witnesses were interviewed during the investigations, in the interest of fairly and expeditiously disposing of the case, the interview records of most of the proposed witnesses would suffice. The Tribunal found that only five of the proposed witnesses would assist it in the determination of all the issues in the case.

4 On 28 July 2022, the Applicant appealed to the United Nations Appeals Tribunal (“UNAT”) against Order No 080 (NEI/2022).

5 On 29 July 2022, the Applicant filed a motion seeking to suspend the proceedings in this case pending the outcome of his appeal against Order No 080 (NEI/2022).

6 On 2 August 2022, the Respondent filed a response to the Applicant’s motion, arguing that he does not consider a stay of proceedings necessary. He argues that the order falls squarely within the case management authority of the Tribunal regarding evidence.

10 In Uwais,³ UNAT reiterated its position and held that

Ms Uwais' submission that the UNRWA Dispute Tribunal made an error of procedure by not calling the 16 witnesses identified by her in her complaints to give evidence before the Tribunal also has no merit. As set out in our Judgment in W4, this Tribunal has established a general principle that case management issues, including the question of whether to call a certain person to give evidence, remains within the discretion of the Tribunal of first instance, and we will intervene only in clear cases of denial of due process of law affecting a party's right to produce evidence. We do not acc

