THE APPLICATION AND PROCEDURAL HISTORY

1. At the time of the application, the Applicant served as a Civil Affairs Officer with the United Nations Mission in Liberia (UNMIL). He served on a continuing appointment at the P-4 level.

2. On 7 December 2016, the Applicant filed an application challenging the Respondent's decision to terminate his appointment with the Mission and the decision to terminate the appointment as of 31 August 2016, rather than on 28 February 2017 "as promised."

3. The Respondent replied on 9 January 2017.

4. The Tribunal held a case management discussion (CMD) on 11 September 2018. Counsel for both parties were asked to seek instructions from their respective clients on their willingness to have this matter settled *inter partes.*

5. On 13 September 2018, the Respondent informed the Tribunal that he does not consider this case as being "appropriate for mediation."

6. On 17 September 2018, the Tribunal issued Order No. 140 (NBI/2018) setting a schedule for the filing of the Respondent's additional submissions and the Applicant's sur-reply.

7. The parties were also directed to jointly advise the Tribunal of their views on the need for an oral hearing.

8. In response to Order No. 140 (NBI/2018), the Respondent filed his further submissions on 19 September 2018.

9. The Applicant filed his response to these further submissions on 21 September 2018.

10. On 25 September 2018, the Applicant informed the Tribunal that this matter can be decided on the basis of the parties' written submissions.

11. Counsel for the Respondent also filed submissions indicating that an oral hearing was not necessary in this matter. The Respondent's position was however based on the proviso that the Applicant would be required to produce evidence of mitigation of damages, specifically, his efforts to secure employment since he was separated from the Mission.

12. On 27 September 2018, the Tribunal issued Order No. 151 (NBI/2018) directing the parties to file their closing submissions by 12 October 2018. The Order also indicated that this matter would be determined on the basis of the parties' written submissions, and set a timeline for further submissions on remedies should the Tribunal find in favour of the Applicant.

13. The parties filed their respective closing submissions, as ordered, on 12 October 2018.

FACTS

14. The Applicant served as the Collections, Coordination and Intelligence Requirement Manager at the Joint Analyses and Operation Centre (JAOC) in UNMIL. On 30 September 2014, his fixed-term appointment was converted to a continuing appointment.

15. While the Applicant's relationship with his First Reporting Officer (FRO) in the JAOC was initially positive, it began to decline in November 2015, when the FRO falsely accused the Applicant of sending an anonymous email to the American Embassy stating that the FRO should not be hired for a particular post he was seeking. Although the Applicant categorically denied having sent the email in question and despite the fact that there was no evidence that he had done this, it appears that the FRO did not believe the Applicant. Shortly thereafter, the FRO generally stopped talking to the Applicant. Further, with the approval of the Applicant's Second Reporting Officer (SRO), UNMIL's Chief of Staff, the FRO also took most of the Applicant's work from him and gave it to another P-4 in the JAOC, who was on a temporary assignment.

16. On 8 February 2016, the Secretary-General proposed the abolition of 104 international positions in UNMIL in the 2016-17 budget period.

47. But even assuming arguendo that the Applicant's post was "unique", the Applicant should have been retained nonetheless in light of Staff rule 9.6(e).

48. There was, at the time of this filing, a staff member in the JAOC on a temporary contract who was performing the same functions as the Applicant. These functions are, indeed, the same or substantially similar such that he should have been retained over the staff member on the temporary appointment.

49. It defies logic that the temporary P-4 staff member who was in the JAOC was performing functions of a post "in which [the Applicant's] services can[not] be effectively utilized". As noted, the Applicant has been continuously in the employ of the Organization since 2001. This has enabled him to garner much

him that he would be extended through 28 February 2017. As such, the Applicant

60. The exchange of emails which led to this offer and acceptance, in relevant part, reads as follows:

> **From:** NW [UNON]
>
> **Sent:** June 28, 2016 11:30 AM
>
> **To:** [the Applicant]
>
> **Cc:** Osla [UNHQ]
>
> **Subject:** *Confidential: Response to your request for legal assistance from OSLA
>
> Dear [Applicant],
>
> As we were starting to prepare the submission on your behalf, we just received word that UNMIL is able to offer you assignments for a total of 8 months, during which time you would encumber one post for two months and another for 6 months. These will be at the P-4 level. I understand that you will be officially advised of this soon by the mission Authorities and of the exact modalities as to how this will work.
>
> Right now the continued mandate of the mission is unclear, so assignments are for less than 12 months (and are generally being given for 6 months only) as per directives from NY to the mission. That said, I understand that the mission is working to obtain longer renewal/assignment periods for its staff, though it is not yet certain whether this will be possible.
>
> I hope that you are pleased.
>
> NW
>
> Legal Officer (OSLA)
>
> From: The Applicant
>
> Sent: June 28, 2016 5:56 PM
>
> To: David Penklist; Jit Gurung7 Gu0 G[(TD8 re568 reW* nBT/F1 12 T)] TJETQq Tf1 0 0 1 13

detriment of not seeking employment elsewhere for the period from 1 September 2016 – 28 February 2017.

62. Finally, this Tribunal can only wonder if the eventual decision to rescind the offer, ebruary 2017.