



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Schook
(Appellant)

v.

(Respondent)

JUDGMENT

[No. 2010-UNAT-013]

Before: Judge Kamaljit Singh Garewal, Presiding
Judge Sophia Adinyira
Judge Rose Boyko

Case No.: 2009-018

Date: 30 March 2010

Counsel for Appellant: Self-Represented

Counsel for Respondent: John Stompor

THE UNITED NATIONS APPEALS TRIBUNAL

Tribunal, to abolish, as of 1 July 2009, the Joint Appeals Boards, and to transfer all cases pending before the Joint Appeals Boards to the United Nations Dispute Tribunal. This tribunal became operational as of 1 July 2009

8. Article 2 (7) of the Statute of the United Nations Dispute Tribunal provides:

As a transitional measure, the Dispute Tribunal shall be competent to hear and pass judgment on:

(a) A case transferred to it from a joint appeals board or a joint disciplinary committee established by the United Nations, or from another similar body established by a separately administered fund or programme;

(b) A case transferred to it from the United Nations Administrative Tribunal;

as decided by the General Assembly.

9. Article 8(1) provides that an application shall be receivable if the Dispute Tribunal is “competent to hear and pass judgment on the application, pursuant to article 2 of the present statute”.

10. Furthermore, article 8(3) provides that “[t]he Dispute Tribunal may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases”.

11. Lastly, article 8(4) states, “an application shall not be receivable if it is filed more than three years after the applicant’s receipt of the contested administrative decision”.

12. Schook’s appeal could have additionally been examined in the light of articles 7 and 8(1), (3) and (4), but we refrain from examining the legal implications of these provisions because we are convinced that Schook’s appeal before JAB was not barred by time. The appeal was receivable because he had not been notified of any written administrative decision of his not continuing in service after 31 December 2007. We find that UNDT has completely ignored that the time of two months, required by rule 111.2(a), begins to run “from the date the staff member received notification of the decision in writing”. Schook was never communicated any written administrative decision. UNDT has failed to examine the case from this angl

Judgment

13. The judgment of UNDT in case No. UNDT/GVA/2009/47 (Judgment No. UNDT/2009/065) dated 4 November 2009 is set aside. The case is remanded back to UNDT, and the appeal shall be received and decided on its merits.

