
APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Juda



Al-Dawoud
(Appellant)

v.

Commissioner-General

Date: 30 June 2016

Registrar: Weicheng Lin

JUDGE R

Submissions

Ms. Al-Dawoud's Appeal

5.

Considerations

10. An area staff member of UNRWA who intends to seek judicial review of an Agency decision must comply with both the UNRWA Staff Rules and the Statute of the UNRWA Dispute Tribunal (Statute) (incorporated into the UNRWA Staff Regulations by Regulation 11.3).

11. Staff Rule 111.2, which went into effect on 1 June 2010, requires a staff member, “as a first step, to seek decision review within 60 days of written notice of the impugned decision”.²

12. Article 8(1)(d)(ii) of the Statute provides, in part, that an application for judicial review “shall be receivable if ... [t]he application is filed with in ... 90 calendar days of the expiry of the relevant response period for the decision review if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to decision review”.

13. As applied, Article 8(1)(d)(ii) requires that

correct, the application was not timely filed under Article 8(1)(d)(ii) and the UNRWA DT properly concluded it was not receivable *ratione temporis*. On the other hand, if the UNRWA DT's finding is incorrect, and the request for decision review was submitted as Ms. Al-Dawoud claims on 18 August 2014, the application was timely filed under Article 8(1)(d)(ii) and the UNRWA DT erroneously concluded it was not receivable *ratione temporis*.

16. The evidence before the UNRWA Dispute Tribunal shows that the UNRWA DT did not make a factual error when it found that the request for decision review was made on 7 July 2014. Ms. Al-Dawoud's application for decision review, signed and dated 7 July 2014, was attached to her application for judicial review before the UNRWA DT, and the UNRWA DT did not err in placing considerable weight on this document. Additionally, other evidence presented to the UNRWA DT by the Commissioner-General shows: Ms. Al-Dawoud's request for decision review was received by UNRWA's Director of Operations, Jordan, on the date it was submitted—7 July 2014—and then forwarded to the Deputy Commissioner-General by memorandum dated 14 July 2014; and further forwarded to the Deputy Commissioner-General's Office by e-mail on 16 July 2014.

17. Further, Ms. Al-Dawoud stated in e-mail correspondence to Ms. Kaddoura, UNRWA's Head of the Field Human Resources Office in Jordan, which was contemporaneous with the filing of her application before the UNRWA DT: "[T]hese are legitimate concerns related to my decision review request which was sent in July and due to the problems with the attachment was resent back in August". Ms. Al-Dawoud annexed this e-mail correspondence to her application.

18. Similarly, in the observations she filed before the UNRWA Dispute Tribunal on 1 March 2015, Ms. Al-Dawoud stated: "Regarding the time limits, DDR [sic] was submitted on 7th of July, 2014 personally. Then I was informed that it was addressed to the wrong person and it was resubmitted to the Deputy Commissioner [-]General (correct person) on 18th of August 2014".

19. Resubmitting a request for decision review cannot, and does not, reset the date decision review is sought or the date from which the limitations period commences to run for filing an application for judicial review. Otherwise, the deadline for filing an application would have no certainty. As the Appeals Tribunal has repeatedly stated,

the deadlines for filing applications and appeals, among other things, must be strictly enforced by the Tribunals.⁴

20. As the request for decision review was submitted on 7 July 2014, the time for

Original and Authoritative Version: English

Dated this 30th day of June 2016 in New York, United States.

(Signed)

Judge Chapman, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Simón

Entered in the Register on this 24th day of August 2016 in New York, United States.

(Signed)

Weicheng Lin, Registrar