
Case No.: UNDT/GVA/2014/010

Judgment No.: UNDT/2014/032

Date: 21 Ma !" 2014

Facts

1. On 16 April 2014 the Applicant filed a Petition for Relief (G)* in the United Nations Tribunal, and (UN, PA) filed an application contesting the decision to award the on-site work order to the respondent (UN, PA) dated 23 September 2013. The application was legislated under Case No. UNDT/GVA/2014/006.

2. Together with the application the Applicant filed a motion for injunctive relief on 14 July 2014 seeking an order for the end of the lease agreement (PAD) in UN, PA. The Applicant requests the Tribunal to urgently injunctive the PAD to the respondent. The respondent to the motion seeks an order for the UN, PA to remain in possession. Considered that the motion deals with different matters than those raised in Case No. UNDT/GVA/2014/006 the Tribunal legislated it under Case No. UNDT/GVA/2014/010.

3. On 20 April 2014 the Applicant filed a motion for injunctive relief measures pending the proceedings as an addition to the motion for injunctive relief. The motion was filed in the file of Case No. UNDT/GVA/2014/10. The addition to the motion seeks the Tribunal to order UN, PA not to make the PAD agreement on the basis of the UNDT order made a decision on the request to grant the respondent to remain in possession of UN, PA.

Consideration

4. Pursuant to art. 22.3 of the Rules of Procedure the Dispute Tribunal shall decide on the admissibility of an application for injunctive relief.

*. Considered that the injunctive relief measures not apply to the case art. 22 of the Tribunal Rules of Procedure is addressed to persons who are not parties to the case. The parties of a case are the Applicant and the respondent. Therefore in the instant case the Applicant as a party cannot file a motion for injunctive relief on the case. The motion is void and not enforceable.

6. *in addition* the Applicant's request to urgent review into the PAD is unnecessary. It is not the role of the Tribunal to review the merits of the decision. Article 2.1 of the Dispute Tribunal Statute provides that the Tribunal shall not be bound by the merits of the administrative decision. It is not the role of the Tribunal to review the ongoing administrative process as the Applicant's request was filed on 14 July 2014 and the Tribunal's decision is still pending.

7. Regarding the Applicant's motion for interim measures the Tribunal notes that such interim measures are only available during the proceedings. (see article 10.2 of the Tribunal's Statute). In the Tribunal's decision on the Applicant's motion for interim measures of Case No. UNDT/GVA/2014/10 it is noted and as a result the Tribunal is not bound for an interim measure.

8. The issues discussed above are a matter of law and the Tribunal is not bound by the findings of the Administrative Tribunal (see Gehr 2013) UNAT)313; Christensen 2013) UNAT)33; see also Bofill UNDT/2013/141; Lee UNDT/2013/14). As such the Tribunal deems it appropriate to decide on the instant case summarily. In accordance with article 6 of the Rules of Procedure of the Tribunal the Tribunal may determine on its own initiative that summarily judgment is appropriate.

