
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2018/057

Judgment No.: UNDT/2020/034

Date: 4 March 2020

Original: English

Before: Judge Eleanor Donaldson-Honeywell

Registry: New York

Registrar: Nerea Suero Fontecha

SHAH

v.

SECRETARY-GENERAL

8. On 25 May 2017, UNIFIL Human Resources notified the Applicant of the reassignment and informed him of the procedure for raising a travel request for travel to Lebanon. During the same week, on 30 May 2017, the ONUCI Travel Officer who the Applicant spoke with on 24 May 2017 informed him by email to revert to UNIFIL to arrange for his travel from Abidjan to Beirut, Lebanon. This email was in response to the Applicant's inquiry about issuing a ticket for his own travel.

9. On 1 June 2017, the Applicant raised a travel request for himself in the United Nations on-

19. The Respondent's case can be summarized as follows:

a. The contested decision was lawful. The the repatriation travel of the Applicant's family to India constitutes an overpayment. Pursuant to sec. 1(a) of ST/AI/2009/1 (Recovery of overpayments made to staff members), the Organization is duty bound to correct its mistakes and put an end to the illegal situation by proceeding with recovery.

b. The Applicant was not entitled to repatriation travel for his family once the proposed separation was no longer to take place. Staff members are charged with knowledge of the rules governing their appointment. Under staff rule 3.19(c)(i), a staff member and his or her family are entitled to repatriation travel upon separation from the Organization. The Applicant did not separate from the Organization. He was reassigned from ONUCI to UNIFIL and consequently changed official duty station from Abidjan to Naqoura.

c. The Applicant knew at least two months before his family travelled from Abidjan to India that he was not separating from the Organization but that he had been reassigned to UNIFIL. The Applicant was responsible for informing UNIFIL that his family were installed in Abidjan with him, and for raising a request for their travel to Lebanon. Yet he did not do so prior to the commencement of his new assignment.

d. The Administration is responsible for his decision to proceed with the repatriation of his family is without merit. The Applicant's allegation that UNIFIL should have known that his family resided with him is without merit. Under staff rule 1.5(a), the Applicant was responsible for supplying UNIFIL with relevant information.

reassignment to UNIFIL, the Respondent notes that the Applicant has produced no evidence that he consulted ONUCI Human Resources as to whether he was entitled to repatriate his family once he knew he was no longer going to be separated. Furthermore, even if the Travel Office informed the Applicant that dependents could be repatriated before a staff member

upon relocation outside the country of the duty station. Detailed conditions and definitions relating to eligibility and requisite evidence of relocation shall be determined by the Secretary-General.

22. Staff rule 3.19 (Repatriation grant) provides that the purpose of the repatriation grant is to facilitate the relocation of expatriate staff members to a

person by the ONUCI Travel Officer, Mr. DP, that his family could be repatriated lateral reassignment from ONUCI to UNIFIL. The Applicant states that he reasonably relied on this advice and therefore travel to India. The Tribunal takes note that, however, during the same week, on 30 May 2017, the same ONUCI Travel Officer, Mr. DP, informed the Applicant by email to revert to UNIFIL to arrange for his travel from Abidjan to Beirut, Lebanon. This email was in response to the Applicant's inquiry about issuing a ticket for his own travel.

29. The Tribunal considers that the Administration's written communication to the Applicant in response was clear enough to indicate that while ONUCI was not responsible for the Applicant's travel arrangements

32. The Applicant's allegation that UNIFIL should have known that his family resided with him is without merit. Under staff rule 1.5(a), the Applicant was responsible for supplying UNIFIL with relevant information regarding his dependents for the purpose of determining his status and completing travel arrangements. In addition, UNIFIL Human Resources advised the Applicant that the onus was on him to raise a travel request through Umoja for travel to Lebanon. Staff rule 1.5(a) provides:

Staff members shall be responsible for supplying the Secretary-General with relevant information, as required, both during the application process and on subsequent employment, for the purpose of determining their status under the Staff Regulations and Rules as well as *for the purpose of completing administrative arrangements in connection with their employment. Staff members shall be held personally accountable for the accuracy and completeness of the information they provide.* (emphasis added)

33. This misunderstanding by (53273b/F1 1Q3b50 g281eW/F1 12 Tf1 0 0 1 12 Tf/F1 12 Tf1 0 0 1 29

reassignment to UNIFIL in Beirut, the Applicant was on notice that he would no longer be separating from the Organization. The Applicant was therefore no longer entitled to repatriation travel for his dependents to India. By allowing his family to travel to India on 27 June 2017 on the tickets issued by ONUCI, the Applicant incurred the liability of an overpayment as he was clearly not entitled to the repatriation benefit. Under sec. 2.2 of the ST/AI/2009/1, the Organization can rightfully recover this overpayment from the Applicant.

Conclusion

36. In light of the above, the application is rejected.

(Signed)

Judge Eleanor Donaldson-