



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2014/005

Order No.: 021 (NY/2014)

Date: 27 January 2014

Original: English

Before: Judge Alessandra Greceanu

Registry: New York

Registrar: Hafida Lahiouel

CHOLLET

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON APPLICATION FOR
SUSPENSION OF ACTION

Counsel for Applicant:
George Irving

Counsel for Respondent:
Alan Gutman, ALS/OHRM, UN Secretariat
Elizabeth Gall, ALS/OHRM, UN Secretariat

Introduction

1. On 20 January 2014, the Applicant, P-4 level Functional Analyst, Management Support Section, Umoja, Department of Management (“DM”), filed an application for suspension of action, pending completion of management evaluation, of the decision not to renew his fixed-term contract upon its expiry on 31 January 2014.

Background

2. On 19 June 2013, the Assistant Secretary General (“ASG”), Enterprise Resource Planning (“ERP”), informed the Applicant via email that following a series of meetings regarding the Applicant’s work and due to the evolution of the Umoja project to a new phase that the situation of your functions ... and given the sparse resources available to Umoja, the functions for which you were hired in Umoja are not projected to be required in 2014. ..wish to assure you that the conclusion regarding your functions, as

rules regarding a sharing of confidential information regarding his performance evaluation. As part of his request for management evaluation the Applicant also requested that the management evaluation unit suspend his separation from service pending management evaluation pursuant to staff rule 11.3(b)(ii).

6. On 20 January 2014, the Applicant filed the present application for suspension of action, pending completion of management

e. The case is of particular urgency; and

f.

21 November 2013, the Applicant received an email that stated that it was “reconfirm[ing] that [his] Fixed-Term Appointment with Umoja expires on 30/01/2014”. While such language is more definitive than the 19 June 2013 communication, it falls short from actually stating that his contract will not be renewed following its expiry.

14. The Tribunal, after analyzing the content of the correspondence between the parties, considers that the only decision containing clear reference to a non-renewal of the Applicant’s contract is the one contained in the 6 December 2013 memorandum.

Urgency

15. According to arts. 13 and 14 of the Dispute Tribunal’s Rules of Procedure a suspension of action is to be filed in cases of particular urgency.

16. The Applicant submits that while he received the “official” notification of the decision not to renew his contract on 6 December 2013, he was not in a position to file his request for management evaluation prior to 15 January 2014 and the ensuing request for suspension of action in the following week, due to his need to retain counsel, gather information, await responses of potential witnesses and that English was not his mother tongue. As such, the Applicant contends that he “had a little more than a week to finalise [his] request for evaluation”. The Applicant also indicates that he could not previously contest any of the negative comments regarding his performance evaluation as “the rebuttal process is not an option when the rating is “A- Exceeds expectations”.

17. In *Maloka Mpacko*,
the3a

