UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NY/2016/015
Order No.:	101 (NY/2016)
Date:	27 April 2016
Original:	English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

ZHENG

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON WITHDRAWAL

Counsel for Applicant:
Daniel Trup, OSLA
Mariam Munang, OSLA

Counsel for Respondent:
Steven Dietrich, ALS/OHRM, UN Secretariat

Introduction

1. On 22 April 2016, the Applicant, an Investment Officer on a fixed-term appointment at the P-4 level at the United Nations Joint Staff Pension Fund ("UNJSPF"), filed an application for suspension of action pending management evaluation. He requested suspension of the decision, notified to him on 20 April 2016, not to renew his fixed-term appointment, which was due to expire on 30 April 2016.

2. On the same day, the New York Registry of the Dispute Tribunal transmitted the application for suspension of action to the Respondent, directing that a reply be filed by 5:00 p.m. on Tuesday, 26 April 2016.

3. At 2:04 p.m. on 26 April 2016, the Applicant filed a request to withdraw his application for suspension of action. He stated that he had been notified the same day that "the decision to separate him from service has now been rescinded". He therefore

Consideration

5. Article 2.2 of the Dispute Tribunal's Statute states (emphasis added):

> The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, *during the pendency of the management evaluation*, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

6. An application under art. 2.2 of the Statute is predicated upon an ongoing and pending management evaluation. In the present case, the management evaluation has been completed and the contested decision is no longer pending management evaluation. The Applicant has also requested the withdrawal of his application as the decision has been rescinded and his contract extended pending conclusion of the rebuttal process regarding the rating of the Applicant's performance evaluation.

7. There is no longer any determination for the Tribunal to make and the application is dismissed.

Conclusion

8. The application is dismissed in its entirety.

(*Signed*)

Judge Ebrahim-Carstens

Dated this 27th day of April 2016