



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NY/2017/083  
Order No.: 183 (NY/2017)  
Date: 7 September 2017  
Original: English

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**Before:** Judge Ebrahim-Carstens  
**Registry:** New York  
**Registrar:** Morten Albert Michelsen, Officer-in-Charge

YUEN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON WITHDRAWAL**

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**Counsel for Applicant:**  
Brandon Gardner, OSLA

**Counsel for Respondent:**  
Camila Nkwenti, UNEP

## **Introduction**

1. On 16 August 2017, the Applicant, an Associate Programme Management Officer at P-2 level with the United Nations Environment Programme, in Montreal, filed an application to recover the difference of 18 months of salary between steps P2/6 and P2/1 on the basis that it mistakenly appointed her at a higher step than was warranted. The Applicant requests that the contested decision be rescinded.

2. On

5. The object of the *res judicata* rule is that "there must be an end to litigation" in order "to ensure the stability of the judicial process" (*Meron* 2012-UNAT-198) and that a party should not have to answer the same cause twice. Once a matter has been resolved, a party should not be able to re-litigate the same issue. An unequivocal withdrawal means that the matter will be disposed of such that it cannot be reopened or litigated again.

6. With regard to the doctrine of *res judicata*, the International Labour ) in Judgment No. 3106 (2012) stated at para. 4:

The argument that the internal appeal was irreceivable is made by reference to the principle of *res judicata*. In this regard, it is argued that the issues raised in the internal appeal were determined by [ILOAT] Judgment 2538. As explained in [ILOAT] Judgment 2316, under 11:

*Res judicata* operates to bar a subsequent proceeding if the issue submitted for decision in that proceeding has already been the subject of a final and binding decision as to the rights and liabilities of the parties in that regard.

involves a judgment on the merits of the case. Where, as here, a complaint is dismissed as irreceivable, there is no judgment on the meri

barred by *res judicata*.

7. In the instant case, the Applicant filed a motion stating that she withdraws all of her allegations and claims in the present proceedings before the United Nations Dispute Tribunal in finality, including on the merits .

8. The Applicant's unequivocal withdrawal of the merits signifies

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**Conclusion**

9. The Applicant has withdrawn the present case in finality, including on the merits. T