



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2014-UNAT-470

Kissila
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Richard Lussick, Presiding Judge Sophia Adinyira Judge Luis María Simón
Case No.:	2013-543
Date:	17 October 2014
Registrar:	Weicheng Lin

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Phyllis Hwang

6. On 2 October 2012, Ms. Kissila wrote to the Registry of the UNDT in Nairobi stating as follows:

I am intending to file an Application with UNDT in due course. Owing to the fact that I submitted my Request for Management Evaluation on 15 June 2012 and the MEU promised to release its report on 2 August 2012 of which it did not. The ninety (90) day[s] required of me to file an Application with UNDT expires today 2 October 2012 and I have not received a report from MEU.

I am humbly requesting the UNDT to Extend Time Limit to file an Application pending the receipt of Management Evaluation Unit report or whatever the date that UNDT will propose or whichever comes first.

7. On 3 October 2012, the Registry of the UNDT in Nairobi responded:

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14. Ms. Kissila requests that the Appeals Tribunal reverse the Judgment of the UNDT and allow the present appeal to proceed.

The Secretary-General's Answer

15. The UNDT correctly concluded that Ms. Kissila's application was not receivable as time-barred.

16. Ms. Kissila has not established any error on the part of the UNDT warranting a reversal of the Judgment. It was her responsibility to determine that her deadline for applying to the UNDT expired on 28 October 2012 and that the UNDT Registry did not have any obligation to provide any clarification to her as to when exactly her deadline would expire. There was nothing in the response of the UNDT Registry that could support a reasonable interpretation that Ms. Kissila was granted an extension of time to file her UNDT application in April 2013.

17. Ms. Kissila's arguments about the alleged factual errors made by the UNDT do not undermine the UNDT's conclusions about the receivability of her UNDT application as the UNDT only looked at the issue of receivability, and not the merits of her case.

18. The Secretary-General requests that the Appeals Tribunal affirm the UNDT Judgment and dismiss the appeal in its entirety.

Considerations

19. The UNDT Registry, in responding to Ms. Kissila's request for an extension of time in which to file her application, advised her in its e-mail of 3 October 2012 of the relevant statutory provisions governing the question of receivability. It correctly concluded that, since Ms. Kissila had filed a request for management evaluation on 15 June 2012, she was still within the prescribed time limit and there was therefore no need to apply for an extension of time.

20.

- (i) In cases where a management evaluation of the contested decision is required:
- a. Within 90 calendar days of the applicant's receipt of the response by management to his or her submission; or
 - b. Within 90 calendar days of the expiry of the relevant response period for the management evaluation if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to management evaluation for disputes arising at Headquarters and 45 calendar days for other offices[.]

21. Had Ms. Kissila applied the law which the UNDT Registry had set out for her, she would have calculated that she had until 28 October 2012 to file her application. Instead, she did not file her application until 19 April 2013.

22. Ms. Kissila claims that her interpretation as a lay person of the advice given by the UNDT Registry was that an extension of time was not needed. That was certainly the case when the UNDT Registry sent its e-mail, but it was unreasonable for Ms. Kissila, even as a lay person, to conclude from that advice that an extension of time would never be needed and that there was no limitation on the time for filing.

23. This Tribunal has repeatedly and consistently strictly enforced the time limits for filing applications and appeals. Strict adherence to filing deadlines assures one of the goals of our new system of administration of justice: the timely hearing of cases and rendering of judgments.¹

24. Moreover, this Tribunal has held that it is the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the United Nations. Ignorance cannot be invoked as an excuse². In the present case, Ms. Kissila's argument that she is a lay person has no merit at all, particularly since the UNDT Registry had specifically advised her of the applicable law.

¹ *Cooke v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-275, para. 26, citing *Mezoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-043; *Thiam v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-144; *Ibrahim v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2010-UNAT-069, and *Tadonki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-005.

² *Christensen v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-218, para. 39, citing *Jennings v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-184.

25. Ms. Kissila's claim that the UNDT based its decision on legal technicalities which were not fatal also has no merit. The decision of the UNDT was not based on mere technicalities but on the statutory law governing the issue. What Ms. Kissila describes as a "mere diversion from procedure" was in fact a contravention of Article 8 of the UNDT Statute.

26. Ms. Kissila has not demonstrated any error of law or fact in the UNDT's decision that her application was not receivable *ratione temporis*. We find no merit in her appeal.

Judgment

27. The appeal is dismissed in its entirety and the Judgment of the UNDT is affirmed.

Original and Authoritative Version: English

Dated this 17th day of October 2014 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Simón

Entered in the Register on this 22nd day of December 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar