

NITED ATIONS PPEALS RIBUNAL
RIBUNAL D PPELDES ATIONS NIES

Judgment No. 2020-UNAT-1058

J J -F N ,P .

1. Mr. Yves P. Nadeau filed an appeal against Case Management Order No. 184 (NY/2019)

Appellant's

Submissions

The Appellant's Appeal

11. The Appellant requests that the Appeals Tribunal rescind Orders Nos. 184 and 169 and remand the case to the UNDT for additional findings of fact including an oral hearing to examine the witnesses identified by the Appellant.

12. The UNDT erred when it denied Mr. Nadeau's requests for discovery of documents and submission of additional evidence that Mr. Nadeau did not previously know existed – namely evidence the impugned administrative decision (his separation based on poor performance) was made on the basis of recommendations that were prejudiced, tainted with bad faith or otherwise influenced by improper factors. In *Wilson*,⁶ the Appeals Tribunal overturned the UNDT's refusal to admit additional evidence that had only come into the applicant's possession after the parties had filed their closing arguments. Here, additional evidence was identified before the proceedings could formally be considered "closed". The

communications relating to his own performance, the UNDT is denying him the only legal means available to meet that burden of proof.

20. The appeal should be dismissed in its entirety.

Considerations

21. Pursuant to Article 19 of the UNDT Rules of Procedure, the UNDT “may at any time, either on application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties”.

22. This Tribunal decides:⁹

... Under the new system of administration of justice, the UNDT has broad discretion with respect to case management. ...

... As the court of first instance, the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and do justice to the parties. The Appeals Tribunal will not interfere lightly with the broad discretion of the UNDT in the management of cases. ...

23. By Order No. 184, the UNDT dismissed a request filed after the deadline granted to

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unresolved at the UNDT level and to consider the need for factual determinations based on the whole of the relevant evidence.

