

UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2013-UNAT-348

**Sidell
(Appellant)**

v.

**United Nations Joint Staff Pension Board
(Respondent)**

JUDGMENT

Before: Judge Sophia Adinyira, Presiding
Judge Luis María Simón
Judge Mary Faherty

Case No.: 2012-391

Date: 21 June 2013

Registrar: Weicheng Lin

Counsel for Appellant: Raphael Eghan

Counsel for Respondent: Bernard Cochemé

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed

12. Mrs. Sidell also submits that exceptional circumstances existed in this case, as demonstrated by the fact that the Fund, after receiving the marriage certificate, never communicated to the Sidells that Mrs. Sidell was not eligible for a widow's benefit.

13. Mrs. Sidell, therefore, requests the Appeals Tribunal to reverse the decision of the Standing Committee and to order the Fund to pay her a widow's benefit. In addition, Mrs. Sidell requests the Appeals Tribunal to order the Fund to pay her a lump sum, equal to the amount of the benefit she would have received, had the Fund started paying from the date her entitlement crystallized, and to order the Fund to compensate her for the mental anguish and stress caused by its actions.

The Fund's Answer

14. The Fund submits that Article 34(a) of the UNJSPF Regulations cannot be read in isolation but has to be seen in conjunction with Administrative Rules B.2 and B.3 of the UNJSPF. It is the responsibility of the participant to provide information to the Fund about his or her personal status. Mr. Sidell did not provide this information to the Fund prior to his separation.

15. The Fund further submits that it is not arbitrary to strictly adhere to the wording of Rule B.3, as otherwise the entire functionality of the Fund would be jeopardized. The Fund has to be able to establish the financial risks and liabilities for payment of benefits in the future and therefore needs certainty of who the dependants are.

16. The Fund, thus, requests the Appeals Tribunal to dismiss the appeal and to uphold the Decision of the Standing Committee.

Considerations

17. The conditions for payment of a widow's benefit are set out in Article 34 of the UNJSPF's Regulations, as follows:

WIDOW'S BENEFIT

(a) A widow's benefit shall ... be payable to the surviving female spouse of a participant who was entitled to a retirement, early retirement, deferred retirement or disability benefit at the date of his death, or who died in service, if she was married to

him at the date of his death in service or, if he was separated prior to his death, she was married to him at the date of separation and remained married to him until his death.

18. Mrs. Trang Sidell is the surviving spouse of Mr. Robert Sidell, who was a Fund participant. The Sidells were married at the date of Mr. Sidell's separation and remained married until he died. She therefore submits that she is entitled to a widow's benefit.

19. The Fund does not dispute the existence of the marriage of the Sidells but submits that Mr. Sidell was required, but failed, to report his marriage to UNDP and the Fund to have his record and marital status amended, before he separated from service in 2002.

20. The Fund further submits:

The Administrative Rules make clear the obligation on the part of an employing

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Consequential Orders

30. The Tribunal recognizes the additional new obligations on the Fund by providing Mrs. Sidell with a widow's benefit. Had the neglect to inform the Fund of the Sidells' marriage been the fault of UNDP, pursuant to Article 25(e) of UNJSPF Regulations, the UNDP would have been required to pay the actuarial cost due for the error.

31.

Original and Authoritative Version: English

Done in New York, United States.

(Signed)

Judge Adinyira, Presiding
21 June 2013

(Signed)

Judge Simón
28 June 2013

(Signed)

Judge Faherty
28 June 2013

Entered in the Register on this 26th day of August 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar