



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Cased No. 2010-166

**Barned
(Appellant)**

v.

**Secretary General of the United Nations
(Respondent)**

JUDGMENT

Before:	Judge Jean Courtial, Presiding Judge Luis Maria Simón Judge Inés Weinberg de Roca
Judgment No.:	2011-UNAT-169
Date:	21 October 2011
Registrar:	Weicheng Lin

Counsel for Appellant: Not Represented

Counsel for Respondent: Amy Wood

Judge Jean Courtial, Presiding.**Synopsis**

1. In keeping with its consistent jurisprudence, the United Nations Appeals Tribunal (Appeals Tribunal) has found that, since the Appellant did not submit a preliminary request for administrative review within the time limit set by former Staff Rule 111.2(f), a time limit that expired before the new Staff Rules came into force on 1 July 2009, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) had no alternative but to reject her application as irreceivable.

Facts and Procedure

2. Ms. Vivienne Barned, a former staff member of the United Nations Conference on Trade and Development (UNCTAD), sent a memorandum dated 26 October 2004 to the Chief, Financial Resources Management Services (FRMS) of the United Nations Office at Geneva, asking for explanations concerning the amount due to her for her long-service step. By memorandum dated 15 November 2004, the Chief, FRMS, replied that an amount had been withheld from her long-service step increment retroactive to 1996 in order to recover medical insurance premiums that she should have been paying since 2002.

3. By letter dated 20 December 2004, that Ms. Barned only sent to the Secretary-General on 17 March 2005, Ms. Barned requested that the administrative decision to withhold the amount in question be reviewed. The Appellant attached to her request a note explaining that, although she had prepared the request in December 2004, she had postponed sending it in order to concentrate on relief to the victims of the Indian Ocean tsunami. The Administrative Law Unit of the United Nations Secretariat acknowledged receipt of the request on 16 August 2005.

4. Ms. Barned filed an appeal before the Joint Appeals Board (JAB) seeking reversal of the decision to withhold from the amount due to her as a long-service step the amount she owed in medical insurance premiums. The JAB found that since the request for administrative review had not been submitted within the time limit set in then former Staff Rule 111.2(a), the appeal was inadmissible. By letter dated 1 August 2007, Ms. Barned was informed of the Secretary-General's decision to accept the JAB's findings.

5. After having obtained several extensions of the relevant deadline, Ms. Barsed filed an application with the former Administrative Tribunal on 28 August 2008. The case was not heard before the abolishment of the former Administrative Tribunal and it was transferred to the UNDT which rejected the application as irreceivable in Judgment No. UNDT/2010/083 of 6 May 2010.

6. Ms. Barsed appealed against the Judgment on 22 December 2010. The Secretary-General's answer was received on 11 March 2011.

Submissions

Ms. Barsed's Appeal

7. Ms. Barsed contests the UNDT finding that her application was irreceivable. She argues that there were exceptional circumstances that justified her failure to observe the time limit set in former Staff Rule 111.2(a) for requesting the review of an administrative decision.

Secretary-General's Answer

8. The Secretary-General maintains that the Disputes Tribunal properly concluded that the application was irreceivable as it was time-barred. He adds that the Appeals Tribunal's jurisprudence renders moot the Appellant's argument about the existence of circumstances justifying a waiver of the time limit for administrative review.

Considerations

9. The Tribunal recalls that, since its Judgment in *Costa* (Case No. 2010-UNAT-036), it has consistently interpreted article 8(3) of the UNDT statute as barring the UNDT from suspending or waiving the deadlines for management evaluation. Since Ms. Barsed did not submit her preliminary request for administrative review within the time limit set in former Staff Rule 111.2(f), a time limit that expired before the new Staff Rules came into force on 1 July 2009, the UNDT had no alternative but to reject her application as irreceivable.

Judgment

10. Ms. Barned's appeal is dismissed.

Original and Authoritative Version: French

Dated this 21st day of October 2011 in New York, United States

(Signed)

Judge Courtial,
Presiding

(Signed)

Judge Simón

(Signed)

Judge Weinberg de Roca

Entered in the Register on this 2nd day of December 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar