



INTRODUCTION

1. On 22 March 2017, the Applicant, a staff member of the United Nations Economic Commission for Africa (“ECA”), filed a claim challenging the decision to deny his request for medical evacuation and medical treatment.

THE CLAIM

2. Under section V of his tect303N.0 99.36 6Tm [() TJ ET Q q BT /F1 12.0 Tf 0.0 0.0

THE REPLY

6. In his reply dated 22 April 2017, the Respondent accepts that the Applicant is disabled and is entitled to the benefit of whatever provisions are available to staff members and there is no challenge to the argument that the Applicant's special circumstances relating to disability have properly to be taken into consideration. Whilst submitting that the claim is not receivable the Respondent has provided details of the medical assistance, including medical evacuation, rendered to the Applicant over several years.

7. The Respondent referred to a previous application, Case No. UNDT/NBI/2016/077, in which the Applicant included a complaint of denial of medical evacuation and the Respondent's reply that this aspect of his claim was not receivable because he

9. The Respondent filed a motion for consolidation of the current case with Case No. UNDT/NBI/2016/077 (Kebede).

FINDINGS OF FACT

10. The Applicant joined ECA in 1994 as a Library Clerk at the G-3 level. He has been working as an Inventory Control and Supply Assistant in the Property Management Unit since 14 March 2007.

11. The record shows that the Applicant was provided with medical evacuations by ECA, with special approval from the Medical Services Division (“MSD”) at United Nations Headquarters in New York, on multiple occasions.

a. July 2002 – the Applicant underwent surgery at Nairobi Hospital in Nairobi, Kenya to correct the deformity of his knee and foot caused by childhood polio.

b. February 2003 – the Applicant was evacuated to Johannesburg, South Africa for orthopedic consultation.

c. April 2005 – instead of an evacuation to Johannesburg, the Applicant opted for evacuation to New York after paying the difference in ticket cost and DSA. He was diagnosed with a nerve related problem.

d. July 2006 – the Applicant underwent surgery in Baltimore, USA, to correct the nerve defect to the muscles in his knee area. He returned to Ethiopia in September 2006.

e. May 2008 – the Applicant underwent a series of medical examinations in France. The attending orthopedic surgeon recommended the use of calipers with hip support and rehabilitation therapy since the previous surgeries had not resolved the issues. He also recommended workplace modifications to allow ease of mobility.

f. September 2008 – the Applicant underwent surgery to alleviate nerve pain at the International Modern Hospital, Dubai. He spent 38 days in Dubai.

g. May 2009 – the Applicant went to the Bangkok Hospital Medical Centre for assessment and therapy on an out-patient basis. He declined the surgical procedure proposed by the doctors because an 85% success rate was not assured. He was there for 25 days.

h. September 2009 – the Applicant returned to the International Modern Hospital, Dubai, for another surgical procedure. He spent 33 days there.

i. May 2010 – the Applicant went to the Healthcare City California Chiropractic Centre in Dubai for post-surgery follow-up. He spent 33 days in Dubai.

j. September 2010 – the Applicant returned to the Healthcare City California Chiropractic Centre in Dubai for re-assessment. He stayed for 40 days.

k. March 2011 – the Applicant returned to the Healthcare City California Chiropractic Centre in Dubai for re-assessment. He stayed for 15 days.

l. September 2011 – the Applicant returned to the Healthcare City California Chiropractic Centre in Dubai for re-assessment. He stayed for 38 days.

m. January 2012 -

reassignment to a duty station with good medical facilities, such as South Africa, Geneva or New York.

13. After the Applicant's September 2011, medical evacuation to Dubai, ECA refused his additional requests for evacuation until the current Director of MSD, Dr. Jillann Farmer, met him in Addis Ababa in June 2013. At the meeting, Dr. Farmer explained to him that under ST/AI/2000/10, medical evacuation was to be used only in cases of acute, life-threatening emergencies. She agreed that ECA

of acute, life-threatening emergencies. I agreed to these 2 additional medevacs, as I was concerned that surgery had exacerbated your situation, and I did not wish to leave this

19. On 18 October 2016, the Applicant filed an application to the Tribunal challenging several decisions, including, the denial of medical evacuation. This application was registered as Case No. UNDT/NBI/2016/077.

20. In a reply dated 21 November 2016, the Respondent asserted that the Applicant's challenge against the denial of medical evacuation was time-barred and therefore not receivable.

21. In December 2016, the Applicant once again raised a request for medical evacuation. It was denied by the ECA Chief Medical Officer on 12 January 2017.

22. On 29 January 2017,

Case No. UNDT/NBI/2017/024

Judgment No. UNDT/2018/017

