
UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Rockcliffe
(Appellant)

v.

United Nations Joint Staff Pension Board
(Respondent)

JUDGMENT

Before:	Judge Deborah Thomas-Felix, Presiding Judge Richard Lussick Judge Sabine Knierim
Case No.:	2017-1093
Date:	27 October 2017
Registrar:	Weicheng Lin

JUDGE DEBORAH THOMAS -FELIX

other rule, regulation or guideline that would make staff of the UNJSPF such as Ms. Rockcliffe ineligible for election to the UNSPC.

5. According to an announcement posted on CCISUA's website on 13 April 2017, Ms. Rockcliffe, along with another UNJSPF staff member, Mr. Faye, was elected to the UNSPC.

6. In a letter dated 28 April 2017 to the Acting Assistant Secretary-General for the Office of Human Resources Management (Acting ASG/OHRM), the Chairman of the UNJSPB sought the former's assistance in resolving the issue of a structural conflict of interest arising from the election of Ms. Rockcliffe and Mr. Faye to the UNSPC and consequently to the Pension Board

to Pension Board documents nor could she participate in any formal preparations for the Pension Board sessions and meetings or its constituent groups, committees and working groups, “until such time as the conflict of interest has been resolved”.

10. After she appealed the Pension Board’s decision to the Appeals Tribunal, on 4 July 2017, Ms. Rockcliffe filed a motion for interim measures pending review of the contested decision. In Order No. 284 (2017), the Appeals Tribunal rejected a similar motion for interim measures that Mr. Faye had earlier filed. On 11 July 2017, Ms. Rockcliffe filed a new motion for consideration of her 4 July motion by a three-judge panel. The President of the Appeals Tribunal granted Ms. Rockcliffe’s request. In Order No. 288 (2017) dated 14 July 2017, the three-judge panel dismissed Ms. Rockcliffe’s motion of 4 July 2017 for interim measures, without prejudice to the hearing and determination on the merits of her appeal and that of Mr. Faye.

11. On 20 September 2017, Ms. Rockcliffe filed a motion for expedited review of her appeal so that the legal issues could be resolved before the UNSPC’s next scheduled meetings in November 2017 and April 2018 and the Pension Board’s next meeting in July 2018. On 2 October 2017, the Fund filed comments on Ms. Rockcliffe’s latest motion.

Submissions

Ms. Rockcliffe’s Appeal

12. Ms. Rockcliffe submits that the decision to refer the matter to the Standing Committee, prior to review by the Pension Board or the General Assembly and without consultation with the UNSPC, lacked any basis in law. Furthermore, the Standing Committee was improperly constituted, in that there were no representatives of the United Nations participating in the meeting of 8 June 2017. No United Nations participants’ representatives were invited, and no staff representative observers were present. The misuse of the UNJSPF proceedings to frustrate the free and independent election of the participants’ representatives constitutes an abuse of process.

13. The Standing Committee based the contested decision on a 1992 legal opinion and nothing else. That legal opinion is of dubious relevance. It appears never to have been put into effect since the staff member concerned was permitted to run for election in 1992, as was another staff member from the Fund several years later in 2012. The legal opinion goes against that of the Polling Officers, who have ultimate jurisdiction on the conduct of elections and who have

determined that Ms. Rockcliffe met all the stated requirements to serve on the UNSPC. In any event, the legal opinion cannot override or amend the UNJSPF Regulations and Rules adopted by

Fund's Rules of Procedure. The Fund has never disputed the results of the UNSPC election or interfered with the administrati

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34. It is the ruling of the Appeals Tribunal that Ms. Rockcliffe as a duly elected member of

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