

**TIPS AND INFORMATION NEWSLETTER
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November 2008

Duty To Assist Staff Members With Appeal Procedures

Determining how to file an internal appeal can be an intimidating, daunting and confusing task even for the most sophisticated staff member. Normally, the internal appeal procedures are quite detailed. In most cases, they require that a staff member wishing to appeal an administrative decision to **first** send a letter (Request for Review Letter) to the Executive Head of the organization requesting reversal of the decision. The rules then usually stipulate that if an answer is received within one month an appeal must be filed within the next month or if no answer is received the staff member must lodge the appeal within the next month when the answer was otherwise due with the Appeals Board (Committee or Panel). What happens if the staff member sends his Request for Review letter to the Head of Human Resources instead? Or what if no answer is received to the Request for Review Letter within one month and the staff member sends another letter to the Executive Head reiterating the request for reversal of the decision or sends his appeal statement to the Head of Human Resources?

In Judgment No. 2713 (UPU), the ILO Administrative Tribunal addressed an appeal by a staff member who had timely sent his request for review letter to the Director General. The Director General answered timely denying the request, and therefore an appeal in writing was due to the Joint Appeals Committee (JAC) within one month of the staff member's receipt of the rejection. Two weeks after receipt the staff member instead sent another letter to the Director General reiterating his request for reversal of the decision. Having received no answer, the staff member's lawyer sent a reminder three weeks thereafter notifying that the staff member intended to file an appeal with the Tribunal, which the Director General answered after another three weeks. Some 2 months after the original rejection of the request for review the staff member lodged his internal appeal with the JAC, who recommended that the appeal be dismissed as time-barred.

The Tribunal has often held that procedures cannot be used to set traps for staff members in exercising their rights to appeal. A corollary to this principle is the duty of international organizations to help as soon as possible when staff members make procedural mistakes with respect to exercising the right to appeal. According to the Tribunal, "rectification will usually consist in clearly and precisely outlining the means of redress open to the official". In this case, the Tribunal found the Director General had committed a serious breach of this duty of care in ignoring the second request for review letter, which was sent by the staff member well within the time provided for lodging the appeal with the JAC. The second letter was sufficient to constitute a notice of appeal which contained grounds for reversing the decision. The Director General should have simply forwarded the letter to the JAC. Instead, the Union tried to capitalize on this harmless error by arguing that the appeal was time-barred. While the staff member lost on the merits, the Tribunal awarded 6,000 Swiss francs for the moral injury.

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