

TIP OF THE MONTH

January 2007

Internal Appeals: Do Not Miss the Filing Deadline

The ILOAT has reminded international organizations on several occasions that procedural rules for filing appeals may not set traps for staff members. As a result, almost all international organizations have specific and detailed procedures to be followed in the event a staff member receives an adverse administrative decision. There are very few grounds for justifying failing to meet the filing deadline, which in some cases may be as short as one week. "I forgot" or did not know the rules is not an excuse the ILOAT accepts. It is therefore imperative that all staff members be advised and reminded periodically of the organization's appeal time limit requirements. If the deadline for initiating an appeal is missed, the organization has an almost iron-clad defense against the appeal. Indeed, if the internal appeals board or panel hears a case despite evidence that the appeal was filed untimely, the ILOAT will dismiss the case on the grounds that the internal board or panel was wrong to hear the dispute in the first place. When an aggrieved staff member seeks the help of the Staff Association or Union, the latter should assist the staff member to identify the correct rules governing the time limits for appeal, and identify the deadline and any requirements for seeking review (in writing and to which official). Once that is determined, the staff member can relax and focus on the merits of the claim and decide whether to proceed further with the appeal.

The failure to timely appeal was a defense successfully raised by the IAEA in an appeal lodged by a professional staff member decided by the ILOAT in Judgment No. 2437. He had been given oral assurances of receiving a long-term contract offer. However, he was instead offered a one-year final. He waited for four months before signing the contract. At that time, the two month time period for seeking review started. He believed that the decision might be reversed by his senior management. Some 6 months later, when he received another adverse decision, he decided to ask the Director-General to review the decision not to grant him the long term contract along with review of the new adverse decision. The internal appeals board reviewed and considered both claims. After he separated from service, on appeal to the ILOAT, he sought reinstatement. The claim for the long-term contract was dismissed since the request for review was untimely. His other unrelated claim was successful. However, if he had been successful on the long-term contract claim, he would have had more chances of obtaining reinstatement to the IAEA, which was his primary goal in the litigation.

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