



IN THE MATTER OF:

R.N., Applicant

v.

Chairperson of the African Union Commission, Respondent

FOR APPLICANT: Yared S. NIGUSSIE, Esq,

FOR RESPONDENT: Guy-Fleury NTWARI, Legal Counsel, African Union Commission

BEFORE: S. MAINGA, President, J. SEDQI, and P. COMOANE

HEARD ON: 22 August 2022, 21 September 2022

JUDGMENT

Procedural and Factual History

1. On 20 November 2020, Applicant, a former Assistant Finance and Administrative Officer within the African Union Peace and Security Mission in Moroni, Comoros, filed an application contesting Respondent's refusal to pay him entitlements due to him upon separation from service.
2. Counsel for Respondent did not file a timely answer.¹
3. Applicant first joined the Union in 1999. His most recent assignment was with the African Union liaison office in Comoros, where he served from 17 May 2011 to 14 July 2017.
4. When Respondent decided to close the mission by 21 September 2015, later extended to 2017, Applicant was provided the last extension of his fixed-term appointment ending 14 July 2017. Upon the expiration of his appointment, he completed all formal requirements of clearance upon separation and submitted his signed form on 14 August 2017. However, he claims he could not return to his home country for several months as he received neither a separation notice nor separation entitlements.
5. Despite several written entreaties to Human Resources Management (HRM) inquiring about entitlements due to him, he received no reply. For this reason, Applicant claims, he travelled to the headquarters in Addis Ababa to personally inquire about his separation entitlements.
6. On or about 22 December 2017, Applicant received information that his terminal entitlements were being withheld because he failed to account for certain office equipment and cash in the amount of \$1,904.00. Following in-person meetings with HRM and an inventory conducted prior to the meeting, the claims against Applicant were subsequently withdrawn by HRM.
7. Applicant also received information that, on 27 April 2018, HRM processed his claim for terminal entitlements and requested the Peace and Security Directorate (PSD) to effect payment. Unfortunately, the Tribunal has not seen proof that these payments have actually been made to Applicant.

¹ Counsel for Respondent requested leave to submit his Answer out of time. On 19 February 2020, the Tribunal rejected Respondent's request for want of good cause.

8. On 12 April 2019, Applicant wrote to the Chairperson protesting the refusal to pay his entitlements. In his letter, he advised the Chairperson that he had retained a legal representative, based in his home country of Rwanda, and would “seize the Administrative Tribunal in case amicable settlement does not succeed.” Having received no response from the Chairperson, he filed this application on 20 November 2020.
9. The facts and issues have been presented adequately in the pleadings and this matter is considered without the need to invite the parties for an oral hearing.

Discussion

10. For an application to be receivable, a staff member must seek review by the Chairperson within thirty (30) days of the contested administrative decision.² The Chairperson has thirty (30) days in which to complete the review, failing which the request will be deemed constructively denied.³
11. The staff member then has additional thirty (30) days to file an application with the Tribunal, reckoned thirty (30) days after the filing of administrative review request or from the date of receipt of a decision on the administrative review request, whichever comes first.⁴ Staff members must strictly comply with these mandatory timelines.⁵
12. Applicant contests the refusal of entitlements due to him on separation. He separated from service on 14 July 2017. Applicant’s various correspondence spanning two years notwithstanding, the application is unreasonably late. Importantly, at least as of April 2019, Applicant had retained a legal representative and informed the Chairperson that he would proceed to the Tribunal if his request was not met. However, the application was not filed until November of the following year. The application is untimely.
13. Notwithstanding the circumstances as above, the Tribunal is saddened that the separation entitlements owing to Applicant seem to remain unpaid without good cause. As such, the Tribunal considers it appropriate and urges Respondent to consider administratively resolving the matter.
14. There being no need for determination of other issues in this case, including Respondent’s request for oral hearing, the Tribunal DISMISSES the application.

Date: 21 October 2022

/signed/

SYLVESTER MAINGA, PRESIDENT
JAMILA B. SEDQI
PAULO D. COMOANE

Secretary: _____



² Staff rule 62.1.

³ *Id.*

⁴ Staff rule 62.1; AUAT Statute art.13(iv).

⁵ *M.Z.L.*, AUAT/2018/001, para. 13.