



IN THE MATTER OF:

J.N., Applicant

v.

Chairperson of the African Union Commission, Respondent

FOR APPLICANT: Abderrazek BEN KHELIFA, Esq.

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

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

HEARD ON: 19 August 2022, 20 September 2022

JUDGMENT

Procedural and Factual History

1. On 26 December 2020, Applicant, a Senior Finance Officer (P-3) within the Directorate of Finance, filed an application contesting the decision to cease his monthly housing allowance effective August 2019.
2. Respondent submitted his written Answer on 7 June 2020, to which Applicant submitted his written Observations on 1 July 2021.
3. Applicant joined the Organization on a fixed-term appointment on or about 7 May 2012. His spouse was hired as a regular-appointee on 5 February 2003 and remained in service during the material time.
4. On 28 September 2020, Applicant wrote to the Human Resources Management (HRM) complaining of unexplained salary deductions starting from the August 2019 pay period. Applicant petitioned the Chairperson on 12 November 2020 seeking review of the alleged deductions. In the absence of a response from the Chairperson, Applicant filed his application on 26 December 2020.
5. In his answer to the application, Respondent explains that the alleged deductions actually resulted from the ending of housing allowance because Applicant's regular-appointee spouse continued to concurrently receive such allowance contrary to Staff rule 20.5.
6. Respondent asks the Tribunal to dismiss the application as untimely. On the merits, Respondent argues that Applicant's housing allowance was lawfully discontinued and asks for the application to be refused consistent with the Tribunal's holding in W.D., AUAT/2021/005.

Discussion

7. For an application to be receivable, a staff member must seek review by the Chairperson within thirty (30) days of the contested administrative decision.¹ The Chairperson has thirty (30) days in which to complete the review, failing which the request will be deemed constructively denied.²

¹ Staff rule 62.1.

² *Id.*

8. 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.³ Staff members must strictly comply with these mandatory timelines.⁴
9. From the record, the Tribunal understands that Applicant periodically received a statement of earnings at the end of each pay period. Further, Applicant concedes that the changes to his monthly pay began in August 2019, rendering implausible any claim that he first became aware of the contested decision in or about September of the following year.
10. In the circumstances, the Tribunal can reasonably proceed to impute Applicant with awareness of the decision in or about August 2019 and having failed to protest the same within thirty (30) days thereof, the present application is untimely.
11. Even if this matter were to be considered on its merits, Respondent is correct that the facts and issues here are indistinguishable from and controlled by W.D., AUAT/2021/005 wherein the Tribunal upheld the decision to discontinue concurrent payment of housing allowance to a spouse of another staff member.
12. There being no need for determination of other issues in this case, the Tribunal DISMISSES the application.

Date: 21 October 2022

/signed/

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

Secretary: _____



³ Staff rule 62.1; AUAT Statute art.13(iv).

⁴ *M.Z.L.*, AUAT/2018/001, para. 13.