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Tips and Information Newsletter for International Civil Servants

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ILO Tribunal Administrative Judgment 4829 (issued 8 July 2024)

Claims for Benefits for Service-Incurred Illnesses and Injuries Good Faith Duties of the Administration to Provide Procedural Guidance

In Brief

In Judgment 4829, the ILO Administrative ruled on an appeal of a decision to dismiss a claim for financial benefits for a service-incurred injury. The IAEA had dismissed the claim based on failing to timely file the claim, i.e. within four (4) months of the onset of the illness provided under the applicable rules. The specific rule provided:

“Claims for compensation under these rules shall be submitted within four months of the death of the official or the injury or onset of the illness; provided, however, that in exceptional circumstances the Director General may accept for consideration a claim made at a later date.”

The United Nations amended its rules in 2018 to generally provide a 1-year time limit for entering claims, but the IAEA has not followed suit. As a side note, in Austria where the IAEA has its Secretariat, the employer (not the employee) has a duty to report any employee workplace injuries to the insurance company and there is generally no time limit for claims.

Decision

The ILOAT set aside the decision and granted the appeal.

The key facts as recounted by the ILOAT were that on 5 December 2019, the claimant wrote a letter to the Agency’s Joint Medical Service to report that he had been involved in a work accident in the office on 4 October 2019. In that letter, the claimant described the circumstances of his accident, indicated that he was undergoing treatment which might require an extension of his sick leave in the coming weeks, and asked the Medical Service to accept the letter as notice of his accident. On 10 March 2019 the claimant submitted a claim under Appendix D (Rules Governing Compensation in the Event of Death, Injury or Illness Attributable to the Performance of Official Duties) requesting reimbursement of sick leave not covered by insurance, reinstatement of medical leave, and a lump sum for loss of use of function. The claim

was reviewed by a Committee which recommended to the Director General that the claim be dismissed as time-barred and that there were no grounds (exceptional circumstances) for waiving the time limit. The Director General accepted that recommendation, forcing the claimant to file an appeal to the ILOAT.

The ILOAT pointed out that the rule at issue was silent about the form the claim should take and to whom it should be reported. The IAEA pointed to its step-by-step guide available on its intranet stating that claims must be notified by memorandum to human resources even if the medical services has seen the claimant and contended that the letter to the medical services only concerned sick leave requests and return to work issues and was not compliant with the guide.

The ILOAT agreed that the claim was not in compliance with the guide's requirements. However, the ILOAT disagreed with the Director General that the letter to the medical services concerned only return to work or sick leave issues and instead found that it primarily referred to the workplace injury.

Beyond that, the ILOAT held that good faith required the IAEA to assist claimants in navigating the procedures for making such claims and in particular the medical services should have transmitted the claim to the human resources director: *“Appendix D does not explicitly detail the procedural formalities for submitting a compensation claim for service-incurred injury or illness, such as its format or intended recipient. Therefore, the IAEA had a duty to provide procedural guidance to the complainant who was mistaken in the exercise of his right. Rather than penalizing him for procedural non-compliance, which at least in part stemmed from the lack of clarity in its own rules, the IAEA should have guided the complainant to follow the appropriate procedures.”*

The Tribunal relied on its cases holding that international organizations may not set procedural traps to nullify appeal rights held by its staff members, and cited Judgment 3034 in which the staff member appealed to the wrong body. The ILOAT held in that case that the administration should have simply been forwarded the appeal to the correct body and rejected the defence of time bar.

The Tribunal remitted the matter back to the IAEA for further processing, and awarded moral damages of 8,000 EUR and costs of 10,000 EUR.

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