



7. Not having received a clear response from the Ethics Office to his follow-up inquiries, on 5 August 2011, Mr. Gehr filed a request for management evaluation, but was informed that his request had been deemed irreceivable. On 30 September 2011, he filed an application with the Dispute Tribunal challenging the decision of the Ethics Office not to respond to his complaint of retaliation (Case No. 1).¹

19. It is quite obvious that the point at issue in the present appeal (Case No. 1), that is, Mr. Gehr's challenge of the decision of the Ethics Office not to respond to his complaint of retaliation, ceased to exist when the Ethics Office notified him of the outcome of its preliminary review of his complaint. The only outstanding issue remaining was Mr. Gehr's claim for compensation.

20. We can find no error in the UNDT's finding that the application before it was moot and thus not receivable. Further, the UNDT's decision to dispose of the issue of compensation as part of Case No. 2 is a case management decision well within the discretion of the UNDT and causes no injustice to Mr. Gehr. The Appeals Tribunal has previously held that the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and do justice to the parties and this Tribunal will not lightly interfere with the broad discretion of the UNDT in the management of cases.³

21. We make the observation that this Tribunal should never have been called on to review the UNDT's decision, since the fact that the application was moot was so obvious that no reasonable person could have arrived at any other conclusion. In our view, Mr. Gehr has manifestly abused the appeals process by filing an appeal that is blatantly frivolous. Mr. Gehr is fortunate on this occasion that the Secretary-General has not made an application for costs. However, should Mr. Gehr ever again bring an appeal with such lack of merit, then he should be prepared to face an award of costs pursuant to Article 9(2) of the Statute of the Appeals Tribunal.

22. It goes without saying that Mr. Gehr has not established that the UNDT fell into any error, and the appeal fails.

Judgment

23. The Judgment of the UNDT is affirmed and the appeal is dismissed.

³ Bertucci v. Secretary-General of the United Nations, Judgment No. 2010-UNAT-062 (full bench, Judge Boyko dissenting.); see also Article 19 of UNDT Rules of Procedure.

