



**World Bank Administrative Tribunal**

**2011**

**No. 460**

**David Muchoki Kanja,  
Applicant**

**v.**

**International Bank for Reconstruction  
and Development,  
Respondent**

**World Bank Administrative Tribunal  
Office of the Executive Secretary**

**David Muchoki Kanja,  
Applicant**

v.

**International Bank for Reconstruction  
and Development,  
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Florentino P. Feliciano (Vice-President), Mónica Pinto (Vice-President), Francis M. Ssekandi, and Ahmed El-Kosheri.
2. The Application was received on 16 March 2011. The Applicant was not represented by counsel. The Bank was represented by David R. Rivero, Chief Counsel (Institutional Administration), Legal Vice Presidency.
3. This case deals with the Applicant's claim that the Bank misinterpreted and misapplied Staff Rule 7.02 ("Benefits on Ending Employment") by refusing to pay him a Resettlement Grant upon his separation from service with the Bank and subsequent employment with the United Nations Children's Fund ("UNICEF").

**FACTUAL BACKGROUND**

4. The Applicant joined the Bank in July 1992 and retired from the Bank as a Manager (level GH) effective 21 July 2010. On 18 February 2010 UNICEF offered the Applicant a two-year fixed-term appointment as Director, Office of Internal Audit, effective 2 August 2010.
5. By letter dated 12 March 2010, a UNICEF Human Resources Specialist advised the Applicant of his entitlements. In the letter it was stated that the Applicant's appointment would be governed by the UN Staff Regulations and Rules. Attached to the letter was a

Statement of Emoluments/Travel and Shipment, (“Statement of Emoluments”) indicating that the Applicant would be entitled, *inter alia*, to a Daily Subsistence Allowance (“DSA”) for 30 days and an Assignment Grant lump sum.

6. On 24 March 2010 the Applicant attended a Pre-Retirement Planning Seminar at which the Bank’s Human Resources unit (“HR”) presented information on the Bank’s benefits upon ending employment. As stated in the material provided during the seminar, the Bank’s Resettlement Grant – one of the benefits associated with relocation – covered “associated costs of resettlement travel (incidentals, ground transportation, hotel, meals, transportation of pets, etc.)” and would amount to \$7,000 if the staff member resettled with eligible dependent children or \$5,000 in every other case.

7. On 14 May 2010 the Applicant formally informed HR of his retirement, which was to take effect on 21 July 2010. On 19 May 2010 an HR Officer from the Human Resources Service Center (“HRSSC”) sent to the Applicant a 13-page memorandum entitled “Information/Benefits Upon Ending Employment” (“the 19 May 2010 Memorandum”), which provided information regarding benefits to which he was entitled upon ending his employment. Paragraph 31 of the memorandum stated that:

The Bank Group will pay a resettlement grant upon resettlement travel of \$5,000 for a staff member resettling without dependent children, and \$7,000 for a staff member resettling with dependent children. There are no other payments made in conjunction with resettlement; the Bank Group will not reimburse departure expenses, travel time, customs, import or duty fees, costs for the shipment of pets, etc.

8. Paragraph 32 of the same memorandum stated: “Consistent with industry practice, the Bank Group will not provide resettlement benefits to the extent that they duplicate benefits provided by your next employer...”

9. According to the Applicant, he and his family took two trips to New York between 21 and 25 May 2010 and again between 12 and 16 July 2010, to familiarize themselves with the area to which he would be relocating and to “house hunt.” The Applicant states that his intention was to use eventually the Bank’s Resettlement Grant to pay for the travel, subsistence and accommodation costs for the trip.

10. On 20 July 2010 the Applicant informed HR that he would not request the Bank to pay for the cost of his family’s travel tickets from Washington to New York (one of the relocation benefits) because this cost was going to be met by his new employer. He also states that he provided HR with a copy of his new employer’s appointment letter, which explained the benefits payable to him upon appointment. From the benefits related to relocation, the Applicant chose to receive the Lump Sum Option for Travel and Assignment Grant benefits from UNICEF and the Shipment of Personal and Household Effects benefit from the Bank.

11. On 21 July 2010 the Applicant retired from the Bank after having been with the organization for 18 years.

12. On 29 July 2010 the HR Officer sent the Applicant an e-mail message to inform him that, upon review of his case, it had been decided that he was eligible for neither the Bank’s Resettlement Grant (because it would be duplicated by the DSA that he was going to receive from UNICEF) nor for the Bank’s Excess Baggage Grant (because it was included in the Lump Sum Travel benefit that was to be provided to him by his new employer). On 29 July 2010 the Applicant informed HR that he did not agree with its conclusions and requested a further review by the managers concerned.

13. On 2 August 2010 the Applicant took up his appointment with UNICEF.

14. On 6 August 2010 the Acting Manager, HRSSC, advised the Applicant of the determination of his resettlement benefits in accordance with Staff Rule 7.02, paragraph 10.05 (“Duplication of Benefits”). She provided in a table a comparative analysis of the benefits given by the Bank and UNICEF. According to this analysis, the Resettlement Travel benefit by the Bank was equated with the Lump Sum Option for Travel benefit by UNICEF; the Resettlement Grant of \$7,000 provided by the Bank was equated with the DSA for 30 days provided by UNICEF; and the Shipment Option by the Bank was equated with the Shipment Option provided by UNICEF. She added:

I understand that you are being provided travel and DSA from UNICEF and have chosen to take the Shipment option from the Bank. Therefore, per the Staff Rule ... you become ineligible for the Resettlement Grant and the Resettlement Travel. You will receive the full shipping benefits ... from the Bank. Please note that excess baggage is available to you when using shipping from the Bank, as there was some confusion on this benefit.

15. On 14 August 2010 the Applicant requested the Ombudsman to assist him in resolving the dispute regarding the Resettlement Grant and to ensure that HRSSC paid him the Excess Baggage Grant.

16. On 30 August 2010 the Ombudsman sent the Applicant a justification provided to her by HR regarding the treatment of the Resettlement Grant. HR had explained:

As we explained to [the Applicant], Staff Rule 7.02, Benefits on Ending Employment, states in paragraph 10.05, that [the World Bank Group (WBG)] will not pay resettlement benefits to the extent that they duplicate benefits provided by the staff member’s next employer .... In comparing WBG resettlement benefits to the benefits provided by UN to [the Applicant] upon appointment, we determined that our resettlement grant was intended for the same purpose as the UN’s Assignment Grant. Consequently, payment of the Resettlement Grant by WBG would constitute a duplication of benefits. Details follow:

In accordance to the WBG’s Staff Rule 7.02, paragraph 3.04, WBG will pay a resettlement grant to a staff member to help defray costs associated

with preparations during a move and settling-in at the place of resettlement.

In accordance to the UN's Guide to Mobility & Hardship Arrangements ... UN will pay Assignment Grant to assist at the beginning of the assignment with removal/installation related costs such as temporary housing, purchase/rental of household items, & establishment of a new household. In accordance to said Guide, the Assignment Grant is composed of a lump sum equal to one month of net salary plus associated post adjustment allowance, as well as DSA equal to \$378 per day for 30 days for the staff and \$189 per day for 30 days for each of three eligible dependents.

17. HR provided to the Ombudsman a table setting out a comparison of WBG Resettlement benefits and UN Relocation benefits. According to the table, the Bank's Resettlement Travel was equated with the UN's Relocation Travel benefit and it was shown that the Applicant had chosen to receive the UN benefit in cash. The WBG's Resettlement Grant amounting to \$7,000 was equated with the UN's Assignment Grant elected by and paid to the Applicant. This Assignment Grant comprised (i) a lump sum equal to one month's net salary plus a Post Adjustment Allowance equal to 63.5% of one month's net salary and (ii) a DSA for the Applicant and his three dependents amounting to \$28,350. The Shipment of Household Goods and Personal Effects benefit provided by the Bank was compared to the same benefit offered by the UN and it was stipulated that the Applicant had elected to receive the Bank benefit in kind and had declined the UN benefit.

18. On 7 September 2010 the Applicant filed a Request for Review with Peer Review Services ("PRS") challenging the administrative decision not to pay him the Resettlement Grant and the Excess Baggage Grant.

19. On 30 September 2010 the Applicant, during a review of his personal bank accounts, verified that the Bank had deposited the Excess Baggage Grant in his bank account. Accordingly, PRS did not review this claim.

20. In its report issued on 23 December 2010 the PRS Panel observed, *inter alia*, that according to the plain meaning of Staff Rule 7.02, paragraph 3.04, there were two types of costs associated with the Resettlement Grant: (i) costs associated with “preparations during a move to” and (ii) costs associated with “settling in” at the place of resettlement. The Panel also observed that the UN Assignment Grant received by the Applicant did not fully duplicate the benefits offered under the Bank’s Resettlement Grant because the Assignment Grant covers costs associated with “settling in” and does not cover costs associated with “preparations during a move to” the place of resettlement. The Panel noted that the Applicant “did not receive benefits, either from the Bank or from the UN, to cover costs associated with ‘preparations during a move to’ the place of resettlement (e.g., loss of security deposit, visa and immigration fees, departure expenses, import or duty fees, incidentals, ground transportation, hotel, meals, transportation of pets, etc.).”

21. Based on the evidence presented in the case, the Panel found that the Bank was not fair to the Applicant in its application of the Staff Rules and that it applied Staff Rule 7.02 incorrectly and therefore treated him inequitably. The Panel also found that the Bank did not follow a fair and proper process in the manner in which it made its decision. It concluded that the Bank had not observed the Applicant’s contract of employment and terms of appointment. The Panel therefore recommended the following: (i) that HRSSC should perform promptly another review of the Applicant’s case based on the plain meaning of Staff Rule 7.02, paragraphs 3.04 and 10.05(a); and (ii) that HRSSC should pay to the Applicant a portion of the Resettlement Grant in an amount that is equitable to him to cover costs for “preparations during a move to” his place of resettlement. The Panel recommended that if HRSSC could not calculate an appropriate amount for a partial

Resettlement Grant, then HRSSC should pay the Applicant the full Resettlement Grant in the amount of \$7,000.

22. By letter dated 24 January 2011, the Vice President of Human Resources advised the Applicant of his decision not to accept the recommendation of PRS, stating:

Based on my review, I have determined that the Bank followed a fair and proper process in consideration of your request for a Resettlement Grant under Staff Rule 7.02.... Further, the decision not to pay a Resettlement Grant was reasonable in view of the provisions of Staff Rule 7.02, para. 10.05(a). As a result, I have determined that the Bank has acted consistently with your contract of employment and terms of appointment in this matter.

23. On 16 March 2011 the Applicant filed an Application with the Tribunal. The Applicant contests the Bank's refusal to pay him a Resettlement Grant under Staff Rule 7.02 and requests the rescission of this decision. The Applicant also requests the Tribunal to order the Bank: (i) to pay him a portion of the Resettlement Grant in an amount that is equitable to him to cover the following costs, in accordance with paragraph 3.04 of Staff Rule 7.02, which are not duplicated by benefits provided by his new employer: (a) costs for "preparation during a move to the place of resettlement" and "transporting pets" and (b) costs relating to "settling in at the place of resettlement" that are not part of the three types of expenses that are covered by the Applicant's new employer (for temporary housing, purchase/rental of household items, and establishment of a new household) which all occur after his arrival at his new UN duty station; or, if the Bank cannot calculate an appropriate amount for a partial Resettlement Grant, to pay him the full amount of the grant in the amount of \$7,000; (ii) to adopt clear and fair criteria, that are communicated to all staff, for use by HR when administering the "duplication of benefits" rule in paragraph 10.05 of Staff Rule 7.02; and (iii) to pay costs for the preparation, research and submission of this case, estimated roughly at around \$10,000.



## THE CONTENTIONS OF THE PARTIES

*The Applicant's main contentions*

24. First, the Applicant claims that the purposes of the Bank's Resettlement Grant and the UN's Assignment Grant are different. The Resettlement Grant is intended for costs associated with resettlement travel while the policies in UN documents indicate that the Assignment Grant is intended for costs that relate to temporary housing, purchase or rental of household items, and the establishment of a new household.

25. Second, the Applicant states that there is no duplication of benefits in receiving both the Resettlement Grant and the Assignment Grant. The Bank's Resettlement Grant provides for costs for "preparation during a move to" and the "cost of transporting pets" which occur before arrival at a new duty station and are thus not covered in any way by the UN grant. The Bank's Resettlement Grant also provides for costs for "settling-in at the place of resettlement." The Applicant argues that some elements of these costs can be considered to be covered partially by the UN grant in relation to the three aspects of costs (for temporary housing, purchase or rental of household items, and establishment of a new household) that it is intended to cover. The Applicant argues that since costs for "preparation during a move to the place of resettlement" and the "cost of transporting pets" are not duplicated and the "costs for settling-in at the place of resettlement" can only be considered to be duplicated partially, the Bank's refusal to pay the Applicant the whole Resettlement Grant is inconsistent with Staff Rule 7.02 and thus contravenes the Applicant's conditions of employment and terms of appointment.

26. In his Reply, the Applicant states that the Bank should not have applied retroactively the contents of the International Civil Service Commission ("ICSC") booklet on the United Nations Common System of Salaries, Allowances and Benefits, August 2010 edition ("the

August 2010 booklet”), to the Applicant’s case because the document was not effective at the time that the Bank was making the contested decisions in July 2010.

27. Finally, the Applicant adds that he was given different reasons at different times for the denial of the Resettlement Grant.

*The Bank’s main contentions*

28. The Bank first claims that, contrary to the Applicant’s contention, the scope of the UN Assignment Grant goes beyond the “costs for settling-in” and encompasses “costs for preparations during a move to a place of resettlement.” It points out that the August 2010 booklet states that the “[assignment] grant is intended to cover additional costs of taking up residence at the duty station and any pre-departure expenses incurred as a result of the relocation.” In sum, the Bank’s Resettlement Grant and UNICEF’s Assignment Grant cover similar costs associated with relocation. Furthermore, the Bank points out that, according to Section 1.1 of UN Administrative Instruction ST/AI/2000/17 (“UN Administrative Instruction”), the Assignment Grant “is the total compensation payable by the Organization for costs incurred by the staff member and his/her family members as a result of an appointment ... involving relocation, as well as any pre-departure expenses that the staff member may incur as a result.”

29. Secondly, the Bank maintains that house-hunting comes under the purview of both the Assignment Grant and the Resettlement Grant. The Bank states that the Applicant’s trip to New York may well be for job-hunting, as opposed to house-hunting, but what is of import is that the Applicant travelled at UNICEF’s expense on recruitment and received the Assignment Grant from UNICEF which duplicates the Resettlement Grant to which he would have been entitled if the Assignment Grant were not payable to him.

30. Thirdly, the Bank states that the August 2010 booklet did not contain any language suggesting that it introduced any amendments with regard to the Assignment Grant. Even if the 2010 booklet were construed as an amendment, its effect would be to clarify the purpose of the Assignment Grant and, as such, is necessarily retroactive. In any event, the Bank argues, no matter how construed, neither the ICSC's February 2009 booklet entitled "A Guide to Mobility and Hardship Arrangements," ("the February 2009 booklet") upon which the Applicant relies nor the August 2010 booklet cited by the Bank supports the Applicant's contention. The Bank points out that considering the provisions of the UN Administrative Instruction, it is evident that the purpose of the Assignment Grant has not changed since 2000, and certainly not between 2009 and 2010 when the ICSC booklets were issued.

#### THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

31. The main question that the Tribunal will address in this case is whether the Bank correctly interpreted and applied Staff Rule 7.02 ("Benefits on Ending Employment") and all other applicable rules in the Applicant's case when it denied him the Resettlement Grant after he received the Assignment Grant from his next employer, UNICEF.

32. An examination of the written record as well as of the benefits to which the Applicant was entitled under the applicable provisions shows the following.

33. Regarding his entitlements from the Bank, the Tribunal notes that the Applicant became eligible to receive benefits on ending employment pursuant to Staff Rule 7.02, Section 2, as a result of his retirement from the Bank effective 21 July 2010. As Staff Rule 7.02 provides in paragraph 1.01: "The purpose of the benefits in this Rule is to provide reasonable assistance to staff members who resettle at the end of Bank Group employment." Furthermore, according to paragraph 1.03(c) of the Staff Rule: "Place of resettlement means a destination outside a staff member's duty station area" and "Resettlement means moving a

staff member's residence to the place of resettlement." As provided in Sections 3 - 9 of Staff Rule 7.02 and as explained in the 19 May 2010 Memorandum, the resettlement benefit consisted of three components:

- One-way Bank Group-provided travel to [the staff member's] resettlement destination ... for [the staff member] and eligible dependents;
- A shipment (including packing and unpacking, except that [the] Bank Group is not responsible for disconnecting and connecting electronic equipment, including but not limited to entertainment systems and computers) together with related storage and insurance (or you can elect an Optional Removal Grant instead); and
- A "general purpose" resettlement grant.

34. With particular regard to the amounts of the Resettlement Grant awarded to a staff member and the types of costs that they cover, Staff Rule 7.02, paragraph 3.04, provides:

The Bank Group will pay a resettlement grant to a staff member to help defray *costs associated with preparations during a move to and settling-in at the place of resettlement, including the cost of transporting pets*. The amount of the resettlement grant will be \$5,000 for a staff member resettling without dependent children, and \$7,000 for a staff member resettling with dependent children. (Emphasis added.)

35. The Applicant was notified also of the limits in the amounts of the Resettlement Grant in the 19 May 2010 Memorandum. In addition, it was stated therein: "There are no other payments made in conjunction with resettlement; the Bank Group will not reimburse departure expenses, travel time, customs, import or duty fees, costs for the shipment of pets, etc." The reasonable inference would be that these costs would be covered by the Resettlement Grant or perhaps by other resettlement benefits.

36. The record also shows that the Applicant received all the preceding information when he attended a Pre-Retirement Planning Seminar held on 24 March 2010. The documents given to the Applicant during this seminar state in pertinent part that the

Resettlement Grant “[c]overs associated costs of resettlement travel (incidentals, ground transportation, hotel, meals, transportation of pets, etc.).”

37. Regarding the limitations on resettlement benefits, Staff Rule 7.02 provides at paragraph 10.05:

a. The Bank Group will not pay resettlement benefits to the extent that they duplicate benefits provided by the staff member’s next employer or the employer of the staff member’s spouse or domestic partner.

b. Staff members availing themselves of any of the resettlement benefits provided in this Staff Rule will forfeit all claims to any benefits or allowances provided for resettlement under any other Bank Group program.

38. The Applicant was informed accordingly in the 19 May 2010 Memorandum that: “Consistent with industry practice, the Bank Group will not provide resettlement benefits to the extent that they duplicate benefits provided by your next employer...”

39. Regarding his entitlements from UNICEF, the Tribunal notes that in accordance with the Statement of Emoluments, the Applicant was entitled to a DSA for 30 days upon arrival in New York (presently at \$378 per day plus \$189 per day for each of his eligible dependents). The record also shows that the Applicant was entitled to a lump sum of one month’s net base salary plus Post Adjustment. (These two benefits constitute the Assignment Grant.) The Applicant was also entitled to, among other things, the cost of travel to his duty station for him and his eligible family members or, in the alternative, a Lump Sum Option for Travel, given in cash, in an amount equivalent to 100% of “the cost of [a] one-way full fare at the authorized standard of accommodation by the least costly scheduled air carrier and by the most direct and economical route.” The Statement of Emoluments provided that in case the Applicant chose the Lump Sum Option for Travel, he would not be entitled to “any further amount for a) transportation rest stopovers; b) terminal

expenses; c) insurance coverage; d) accompanied excess baggage; e) expenses relating to travel documents and visas; f) expenses relating to inoculations and vaccinations.” The reasonable inference is that such expenses are covered by the Lump Sum Option for Travel benefit. The Applicant was also entitled to receive from UNICEF the Shipment of Personal and Household Effects benefit for himself and his dependents, as well as the Accompanied Excess Baggage benefit and the Shipment Insurance benefit.

40. The Applicant was also advised in the Statement of Emoluments regarding housing in New York and rental subsidy:

On arrival in New York, you may wish to have the assistance of the United Nations Housing Section in finding both temporary and permanent living accommodations. You may be eligible for the rental subsidy scheme. However, the rental subsidy is NOT payable during the first thirty (30) days after your arrival at the duty station, since you will be receiving a DSA payment.

41. The record shows that the Applicant elected to receive the following relocation-related benefits from the two organizations. First, the Applicant chose to receive from UNICEF a Lump Sum Option for Travel for himself and his family. This option is not available if Resettlement travel is arranged by the Bank which offers only less than first class air travel for staff and dependents.

42. Secondly, the Applicant elected to receive the Shipment of Household Goods and Personal Effects benefit from the Bank. This benefit includes shipment of approximately 5,500kgs of household goods; shipment of one automobile; up to 90 days of in-transit storage; \$1,800 for excess baggage; up to \$200,000 of insurance for shipment of household goods and automobile. The Tribunal notes that the equivalent benefit from UNICEF covers fewer costs as it only allowed the Applicant a shipment “of up to 2,100 kgs of household

goods; no in-transit storage provided; 100kgs of excess baggage; up to \$3,360 of insurance for shipment of household goods.”

43. Thirdly, the Tribunal notes that the Applicant received from UNICEF an Assignment Grant composed of a lump sum equal to one month’s net salary and a Post Adjustment Allowance equal to 63.5% of one month’s net salary; and a DSA totaling \$28,350 for 30 days for himself and his three eligible dependents. According to the various communications with the Applicant, the Bank’s HR equated either the DSA portion of the UNICEF Assignment Grant or the entire Assignment Grant with the Bank’s Resettlement Grant. It denied payment of a Resettlement Grant to the Applicant on the ground that the Bank’s Resettlement Grant was intended for the same purpose as the UN’s Assignment Grant which the Applicant had received; his receipt of the Bank’s Resettlement Grant would therefore constitute duplication of benefits.

44. When examining the applicable rules, the Tribunal notes that according to Staff Rule 7.02, paragraph 3.04, a Resettlement Grant is given to a staff member “to help defray costs associated with “preparations during a move to and settling-in at the place of resettlement, including the cost of transporting pets.” Examples of such costs are provided in the 19 May 2010 Memorandum and the Pre-Retirement Seminar documents mentioned at paragraphs 35 and 36 above.

45. The Bank has also submitted a number of documents that define and explain the purpose of the UN’s Assignment Grant. The UN Administrative Instruction provides:

1.1 The purpose of the assignment grant (the “grant”) is to provide staff members with a reasonable cash amount for relocation on initial appointment, assignment or transfer to a duty station. It is the total compensation payable by the Organization *for costs incurred by the staff member and his/her family members* as a result of an appointment, assignment or *transfer involving relocation, as well as any predeparture expenses that the staff member may incur as a result.* (Emphasis added.)

1.2 The grant consists of:

(a) A daily subsistence allowance (DSA) portion, payable in accordance with section 2; and

(b) A lump-sum portion ....

46. Furthermore, of record are two booklets, issued by the International Civil Service Commission which was established by the General Assembly of the UN in 1974 to regulate and coordinate the conditions of service of the UN common system.

47. The February 2009 booklet provides:

*The assignment grant is intended to provide staff with a reasonable cash amount at the beginning of the assignment for the costs incurred as a result of appointment or reassignment. Its purpose is to enable staff to meet removal/installation related costs (temporary housing; purchase/rental of household items; establishment of new household) and is based on the assumption that the main expenses of installation are incurred at the outset of an assignment. (Emphasis added.)*

48. The August 2010 booklet provides:

An assignment grant is paid when a staff member travels at the organization's expense on recruitment or transfer/reassignment for a period of service expected to be of at least one year.

*The grant is intended to cover additional costs of taking up residence at the duty station and any pre-departure expenses incurred as a result of the relocation.*

The grant comprises DSA and a lump-sum portion. The DSA portion of the grant consists of 30 days' DSA for the staff member and half that amount for each eligible family member for whom travel expenses to the duty station have been paid by the organization. The lump-sum portion consists, depending on circumstances, of one or two months' net remuneration at the duty station of assignment. ... (Emphasis added.)

49. A reading of these documents shows that the language used to describe the purpose of the Bank's Resettlement Grant is very similar to the language used to describe the purpose of the Assignment Grant both by the UN Administrative Instruction and the August 2010 booklet. (While these last two documents were introduced by the Bank before



the Tribunal, it appears that PRS did not have the benefit of the information they contained.)

50. The parties do not disagree that both benefits cover relocation costs associated with “settling-in at the place of resettlement” (as the Bank’s Staff Rule states) or “taking up residence at the duty station” (as the language of the August 2010 booklet provides). This is confirmed by the language used in the February 2009 booklet to describe the purpose of the Assignment Grant: “Its purpose is to enable staff to meet removal/installation related costs (temporary housing; purchase/rental of household items; establishment of new household) and is based on the assumption that the main expenses of installation are incurred at the outset of an assignment.” In this respect, the Applicant himself does not appear to challenge the fact that some of the costs associated with settling-in are covered both by the Assignment Grant and the Resettlement Grant and that such duplication of benefits is not allowed. Therefore, a textual, as well as purposive, interpretation of the Bank’s Staff Rule and the UN documents leaves no doubt that they cover the same costs associated with “settling in” or “taking up residence” at the place of relocation and in this respect the Applicant would not be entitled to both benefits.

51. The only question remaining therefore is whether the Assignment Grant, which the Applicant received from UNICEF, also covers the other part of the expenses which the Bank’s Resettlement Grant intended to cover, namely “costs associated with preparations during a move” to the place of relocation. The February 2009 booklet does not give a clear answer in this respect because, when it describes the purpose of the Assignment Grant as providing staff “with a reasonable cash amount at the beginning of the assignment for the costs incurred as a result of appointment or reassignment,” it only states that “the purpose of the Assignment Grant is to enable staff to meet removal/installation related costs.” As

examples, it only lists “temporary housing; purchase/rental of household items; establishment of new household.” It additionally points out that the purpose of the Assignment Grant “is based on the assumption that the main expenses of installation are incurred at the outset of an assignment.” The February 2009 booklet gives the impression therefore that the Assignment Grant is mainly intended to cover the costs of relocation associated with “settling in” or “taking up residence in the place of relocation,” and not costs associated with “preparations during a move.”

52. The Tribunal notes, however, that the listing of the examples of costs associated with relocation in the February 2009 booklet is not necessarily exhaustive. Also, the February 2009 booklet does not refer only to installation costs, but to “removal/installation” costs to be incurred during relocation. The word “removal,” in identifying related costs, could be reasonably interpreted to mean costs associated with the move of goods or possessions from the staff member’s place of origin or, as the Bank’s Staff Rule prescribes, costs associated “with the preparations during a move.” This interpretation is clearly supported by the description of the purpose of the Assignment Grant in the two other interrelated UN documents, i.e. the August 2010 booklet and the UN Administrative Instruction.

53. The UN Administrative Instruction explains that the Assignment Grant is intended to cover “costs incurred by a staff member and his/her family members as a result of ... a transfer involving relocation, as well as any pre-departure expenses that the staff member may incur as a result.” The August 2010 booklet clearly states that the grant is intended “to cover additional costs of taking up residence at the duty station and any pre-departure expenses incurred as a result of the relocation.” A reasonable textual interpretation of “costs incurred” from “a transfer involving relocation” and “any pre-departure expenses incurred as a result of

the relocation,” covered by the Assignment Grant, would equate such costs with “costs associated with preparations during a move,” covered by the Resettlement Grant. Examples of such costs were mentioned in the different Bank documents that the Applicant received and include: “departure expenses, travel time, customs, import or duty fees, costs for the shipment of pets” (listed in the 19 May 2010 memorandum) and the “associated costs of resettlement travel (incidentals, ground transportation, hotel, meals, transportation of pets, etc.)” listed in the Pre-Retirement Planning Seminar document.

54. The Tribunal concludes, on the basis of the foregoing comparison of benefits accorded by the two organizations and interpretation of the provisions of the relevant UN and Bank documents, that the UN’s Assignment Grant essentially covers the same types of costs as the Bank’s Resettlement Grant. Therefore, the Tribunal finds that the Bank, in comparing the two sets of benefits, reasonably interpreted the relevant documents and decided to deny the Applicant the award of the Bank’s Resettlement Grant as it would duplicate the Assignment Grant from UNICEF. Accordingly, any costs that the Applicant incurred in relation to his and his family’s relocation to New York and any related pre-departure expenses are covered by the Assignment Grant that the Applicant received from UNICEF. Such costs would also include the costs that the Applicant claims that he incurred when traveling to New York twice with his family in May and July 2010, for “house hunting” and “to familiarize [themselves] with the area,” as these costs would be classified as “pre-departure expenses incurred as a result of the relocation.”

55. The Applicant contends that the Bank should not have retroactively applied the August 2010 booklet to his case because the booklet was not in effect at the time that the Bank denied him the Resettlement Grant in July 2010. The Tribunal agrees with the Bank’s response that the August 2010 booklet did not introduce any amendments but

simply explained the purpose of the Assignment Grant whose existence dates back at least to 2000, as it is included in the UN Administrative Instruction. As the Tribunal held in *Naab*, Decision No. 173 [1997], para. 26, “[r]etroactivity of a kind that is prohibited consists in the application of a new rule to legal rights and situations operative, begun and consummated prior to the coming into force of the new rule.” As is reflected in the UN Administrative Instruction, the existence, definition and purpose of the Assignment Grant has always been the same since 2000, long before the Applicant received it from UNICEF. Therefore, the Bank did not apply a new rule to the Applicant’s case retroactively.

56. The Applicant further complains about the treatment of his case by HRSSC when he requested different benefits. He points out that on 29 July 2010 HR told him that he was not entitled to the Excess Baggage Grant because it was included in the Lump Sum Option for Travel which the Applicant received from UNICEF. However, on 6 August 2010 the Acting Manager of HRSSC informed him that there had been a confusion regarding such benefit which would, after all, be available to him since he was shipping his personal and household effects through the Bank. The Applicant complains that the HR Manager did not clarify when the benefit would be paid or the criteria for the decision. He states that he found out only through a review of his bank statements in the end of September 2010 that the benefit had been paid to him. The Applicant also complains that the Bank gave different reasons at different times for the denial of the Resettlement Grant. It first equated this benefit with only the DSA, which is only one part of the Assignment Grant he received from UNICEF. He states that it was only after his inquiry and the intervention of the Ombudsman that the Bank informed him on 30 August 2010 that the Resettlement Grant covered the same costs as the entire Assignment Grant.

57. The Tribunal notes that, as the Applicant chose to receive from UNICEF two of the three benefits related to his relocation (i.e. travel costs of himself and family and Assignment Grant) and one from the Bank (Shipment of Personal and Household Effects), it is understandable that there was room for misunderstanding regarding the particular costs that each benefit covered especially as different provisions in the relevant documents make reference to costs covering “excess baggage.” Any confusion was dispelled quickly, however, and the Applicant was informed that he would be receiving the Excess Baggage Grant from the Bank, in relation to the Shipment of his Personal and Household Effects, which he indeed received shortly after being notified of this fact. The Applicant suffered no harm whatsoever in this respect. Furthermore, the Tribunal finds of no particular significance the fact that the Bank initially equated the Resettlement Grant with part of the Assignment Grant (i.e. the DSA) while, a month later, it equated the Resettlement Grant with the entire Assignment Grant (i.e. DSA and lump sum equal to one month’s salary). What matters is that the Applicant was notified at all times that he was not entitled to a Resettlement Grant from the Bank, as it was intended to cover the same costs that all or part of the Assignment Grant covered. The Applicant has not shown that he suffered any compensable injury in this regard.

58. Lastly, the Tribunal notes in this respect that the relocation benefits offered by the Bank (Resettlement Travel, Resettlement Grant and Shipment of Personal and Household Effects) are closely related, and thus cover all associated costs when received at the same time by the staff member. However, the Bank allows staff members who accept assignments in another organization after leaving the employ of the Bank to choose any of the equivalent relocation benefits offered by that organization. The Bank has no requirement that all relocation-related benefits be taken from either one or the other

organization. Staff members are thus allowed to choose from each organization those relocation benefits that are most beneficial to them as long as there is no duplication. As described at paragraphs 41, 42 and 43 above, the Applicant chose the benefits that would be most beneficial to him and his family. By choosing (i) UNICEF's Lump Sum Option for Travel instead of the Bank's Resettlement Travel benefit which only offers one way "less than first class" air ticket; (ii) UNICEF's Assignment Grant (the amount of which is significantly higher than the one of the Bank's Resettlement Grant); and (iii) the Shipment of Personal and Household Effects benefit from the Bank (which covers significantly higher expenses than the equivalent benefit offered by UNICEF), the Applicant found himself in a highly favorable financial position during his relocation. Therefore, the Tribunal finds that any claim of unfair and inequitable treatment of the Applicant by the Bank during his relocation is not sustainable.

59. The Tribunal finds that Staff Rule 7.02 was reasonably interpreted and applied by the Bank to the Applicant and that, therefore, there was no violation of his contract of employment or terms of appointment.

#### DECISION

For the foregoing reasons, the Tribunal dismisses the Applicant's claims.

/S/ Stephen M. Schwebel  
Stephen M. Schwebel  
President

/S/ Olufemi Elias  
Olufemi Elias  
Executive Secretary

At Washington, DC, 11 October 2011