



World Bank Administrative Tribunal

2011

No. 449

**L.T. Mpoy-Kamulayi (No. 3),
Applicant**

v.

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

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

**L.T. Mpoy-Kamulayi (No. 3),
Applicant**

v.

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

1. This judgment is rendered by a Panel of the Tribunal, established in accordance with Article V(2) of the Tribunal's Statute, composed of Stephen M. Schwebel (President of the Tribunal) as President, Francis M. Ssekandi and Ahmed El-Kosheri, Judges.
2. The Application was received on 7 July 2010. The Applicant was represented by Stephen C. Schott, Schott Law Associates, LLP, and the Bank was represented by David R. Rivero, Chief Counsel (Institutional Administration), Legal Vice Presidency.
3. The Applicant seeks full reimbursement of hotel expenses he had incurred in relation to his relocation to Abuja, Nigeria.

FACTUAL BACKGROUND

4. The Applicant, who is currently Lead Counsel (level GH) in the Bank's Legal Vice Presidency ("Legal Department"), joined the Bank in 1984. He has worked primarily at the Bank's Headquarters.
5. In 2007 the Applicant was selected for a decentralized position to serve as Lead Counsel in the Bank's Country Office in Abuja. The terms of his assignment in Abuja were memorialized in the Memorandum of Extended Assignment to Abuja, Nigeria ("the Memorandum") issued by the Bank on 27 December 2007 and signed by the Applicant on 11 March 2008. The Memorandum set out the terms of the benefits the Applicant would receive as part of his relocation package. Included among them were: (i)

relocation grant in the amount of \$12,000; (ii) spouse relocation grant; (iii) assignment allowance; (iv) hardship allowance; (v) cost-of-living allowance; (vi) furniture and equipment (“F&E”) grant; and (vii) rental allowance.

6. The Memorandum stated that the Applicant’s assignment was expected to last three years from February 2008. The Applicant’s relocation to Abuja did not take place at the time anticipated in the Memorandum. He traveled to Abuja on a number of occasions for operational reasons after February 2008 but only officially reported for duty in Abuja on 9 October 2008.

7. After signing the Memorandum in March 2008, the Applicant on his own started to search for a house to rent in Abuja. According to the Bank, it offered to assist the Applicant with his search for housing through the Bank’s Global Mobility Service Provider (“GMSP”), which uses a Bank-paid consultant with familiarity with the local housing market, but the Applicant declined to use GMSP’s housing assistance.

8. In April 2008 the Applicant found a five-bedroom house and signed a three-year lease agreement effective 15 May 2008. The house, however, was not equipped with air conditioners, a generator, or any other equipment or furnishings. The lease stated that installation of air conditioners would be at the Applicant’s own cost, as the tenant.

9. In May 2008 the Bank provided the Applicant with an advance of 12 million Nigerian Naira (“NN”) (approximately \$78,000) to assist with paying two years’ rent in advance, which the Applicant was required to pay under his lease.

10. In June 2008 the Applicant began corresponding with Resource Management (“RM”) colleagues in the Country Office and at Headquarters about equipment for his house. On 20 June 2008 the Applicant sent an e-mail message to the RM Officer in the

Abuja Country Office stating that the house he had rented was not equipped with the following amenities: (i) air conditioning units; (ii) power generator; (iii) converters; (iv) stabilizers; (v) internal security alarm system; and (vi) kitchen appliances. In the message the Applicant requested the RM Officer's guidance on how he should proceed to get these amenities provided by the Bank in accordance with the housing benefits policy.

11. On the same day, the RM Officer responded by asking the Applicant to send to her a copy of the Memorandum and provided the following clarifications:

The Furniture & Equipment Allowance is a subsidy for all household furniture needed to furnish the residence rented by a staff member. It is for items such as cooking stoves, refrigerators, freezers, microwave ovens, washers & dryers.

Equipment such as power generators, transformers, converters, voltage stabilizers, water pumps, water purifiers, water heaters and air conditioners are excluded from the F&E allowance. These items should be provided by the owner from whom the residence is rented. The rental ceiling set for each duty station includes the provision of these equipment. Usually in the rare case where the selected rental accommodation excludes these items, the Region will provide these items and adjust the rental ceiling accordingly.

12. On 30 June 2008 an RM Analyst, who was also Country Office Coordinator working under the Africa Region's Chief Administrative Officer ("CAO"), reiterated in an e-mail message to the RM Officer (copying the Applicant) that while the Region would provide "large equipment such as generators and air conditioners" where the landlord had declined to do so, the staff member like the Applicant was expected to use his F&E grant to "cover all household furniture needed to furnish the residence and household equipment/appliances such as cooking stoves, refrigerators, freezers, microwave ovens, convection ovens, washers, and dryers."

13. The record suggests that the Applicant did not take further steps to equip his house following the above e-mail exchange. According to the Bank, the "Applicant did

not reply or pursue the matter further that summer. He did not make any arrangements for any equipment to be installed, or for workers to be given access to his residence before his arrival. Nor did he keep [the RM Officer] or other Country Office colleagues informed as to when he would finally relocate.”

14. On 9 October 2008 the Applicant finally relocated, officially changing his duty station to Abuja and taking up residence in his leased house.

15. On 14 October 2008 the Applicant sent an e-mail message to the RM Officer requesting that the Bank install a power generator and air conditioning units in his house as soon as possible. Two days later, on 16 October 2008, the Applicant sent another e-mail message to the RM Officer (copying the RM Analyst) stating that he should be provided with the following thirteen items: (i) power generator, (ii) transformers, (iii) converters, (iv) voltage stabilizers, (v) water purifiers, (vi) air conditioners, (vii) air humidifiers, (viii) cooking stove, (ix) refrigerator, (x) freezer, (xi) microwave, (xii) washer, and (xiii) dryer. In the e-mail message he also stated that “I therefore request that we be authorized to move back to hotel accommodation at the Bank’s expense until such time that our residence will have been equipped with these basic equipment items.”

16. The next day, on 17 October, the RM Officer replied to the Applicant (copying the RM Analyst) stating that

As stated in [the RM Analyst’s] e-mail below, you were supposed to provide some additional information that will facilitate the processing of your request. Could you therefore provide us with the following to take this forward:

Specifications/characteristics of the generator and air conditioners. ...

An addendum to the lease should be signed with the landlord, specifying that the staff would install the equipment at the Bank’s cost and remove at the end of the lease, making good any holes made in the wall.

17. The Applicant replied on the same day stating that he was not a technician and could not provide the technical specifications requested. He added that: “Therefore it would help if you could assign an IT colleague to handle this task in liaison with me as needed.” He also added that no lease addendum was needed since the relevant provisions were already included in the signed lease. In addition, he asked when all the other items on his list would be provided to him.

18. The RM Analyst replied on the same day again advising that, pursuant to the Africa Regional Guidelines, the F&E grant covers “all household furniture needed to furnish the residence and household equipment/appliances such as cooking stoves, refrigerators, freezers, microwave ovens, convection ovens, washers, and dryers.” She added that the Applicant would need to furnish those items himself as he was advised before. The Applicant, however, was not satisfied with this reply.

19. To address the Applicant’s concerns, the RM Officer and the RM Analyst consulted with other RM staff in the week beginning 20 October 2008. The RM Officer also asked the Facilities Manager in the Abuja Country Office to quickly procure a generator and seven air conditioning units for the Applicant through an appropriate bidding process. The RM Officer then arranged for the potential vendors to visit the Applicant’s house for a pre-bidding inspection. By 30 October 2008 the Country Office received quotes and pro forma invoices from several vendors.

20. While the RM staff were handling his request for a generator and air conditioning units, the Applicant simultaneously sent an e-mail message on 23 October 2008 to his supervisor, Chief Counsel of the Africa Practice Group in the Legal Department, and the Country Director in Abuja, complaining of the “undue burden” placed on him and his

wife given the “lack of power and current heat condition,” and making a “request to be authorized to take up temporary hotel accommodation while my house is being equipped as needed” at the Bank’s expense.

21. The Chief Counsel replied on 26 October 2008 authorizing the Applicant to move to a hotel on an interim basis but stating that he should move to the “Sheraton Hotel” and that the “costs will be assumed by the [Africa] Region.” The Chief Counsel’s e-mail message, which was copied to the Country Director, CAO of the Legal Department, the RM Officer and the RM Analyst, stated that:

It seems clear that this matter ought not to have taken over four months to resolve. I am unable to explain it myself. In any event, given the climatic conditions, and subject to the comments which follow, you have my authorization to move to a hotel in Abuja on an interim basis, pending the procurement and installation of the A/C units and generator, which are expected to take approximately two weeks. That said, please note the following:

- (i) since this is an exceptional situation, I expect you to stay on top of it and to spare no effort to minimize the time to procure/install the equipment and to take up residence in the home you have leased as soon as possible;
- (ii) again given the exceptional nature, the expense associated with the interim hotel arrangements need to be kept to a minimum. In this regard, I am advised by the CD [Country Director] that the Sheraton Hotel would be a good option for you and your wife at a reasonable price. You should move there; and
- (iii) since these interim arrangements are related to your decentralization, the costs will be assumed by the Region.

22. The Applicant, however, moved to the Transcorp Hilton in Abuja on 24 October 2008, before the above written authorization came from the Chief Counsel. The Applicant states that: “On October 24, 2008, Applicant spoke with his Chief Counsel and obtained his authorization to move back into hotel accommodation until Applicant’s house was properly equipped with the required items.” The Bank states that:

Without waiting for written confirmation that the Region would carry the costs, Applicant had already moved to a hotel. He did not move to the Sheraton, however, despite its vacancies at the time as confirmed by the Country Office. Instead, Applicant moved to the much more expensive Transcorp Hilton Hotel in Abuja on October 24, 2008. ... Applicant never provided any justification other than personal preference for moving to the Hilton rather than the Sheraton. The Bank's negotiated rate at the Sheraton was 14,300 Naira per night. Applicant's room charges at the Hilton averaged 25,779 per night.

23. Following up on the Chief Counsel's correspondence with the Applicant, the Country Director on 27 October 2008 wrote to the RM Officer to ensure that the air conditioning units and generator were purchased and installed without delay. On the same day the RM Officer wrote to the Country Director and the Chief Counsel (copying the Applicant and the RM Analyst) seeking to clarify any impression that the RM team had caused any undue delays:

I have no objection to this case being granted any exception. I however crave your indulgence to correct a misrepresentation in e-mails below creating the impression that the RM team ... failed to act for four months.

This Unit has worked on more than twenty five relocation cases and this one has been the only and most intricate to put it subtly. All other staff who relocated in the past have tried to work within Bank guidelines and also taken due advantage of institutional assistance provided.

I do not know what e-mails were forwarded to you, but we could not have outfitted the house when the staff did not provide the additional information requested or access to his home. His date of relocation and taking up residence in Nigeria was October 9, 2008. Prior to this date we did not have access to the residence. Since he relocated, he appeared to have enough time to focus on the issue of air-conditioners and generator. And we have since provided all the assistance required as usual and will continue to do so until the house is outfitted.

Since Mpoy's Relocation Grant which has been paid already and was to cover his accommodation for the first 30 days upon relocation is not to be used for this purpose, I will contact RM colleagues in DC to confirm what charge code the hotel accommodation will be charged to, in line with the exception granted [by the Chief Counsel].

24. On 29 October 2008 the CAO of the Africa Region informed the Country Director and the Chief Counsel by e-mail (copying the Applicant) that the Africa Region did not agree to any exceptions for the Applicant and would not carry the cost of his hotel stay. He noted in his e-mail message that the “region has consistently followed the guidelines across country offices and no exceptions have been given, because that would be a double payment to staff.” He added that staff members were expected to pay for the first 30 days of hotel expenses from the relocation grant and on the 31st day were expected to enter rental cost-sharing arrangement with the Bank.

25. The Applicant did not accept the explanation of the Africa Region’s CAO and sought intervention from the Chief Counsel on the same day. The Chief Counsel then asked the CAO of the Legal Department to review the matter and come up with a solution.

26. After consulting with the Chief Counsel and the Africa Regional staff, the CAO of the Legal Department wrote to the Applicant on 24 November 2008. In the e-mail message he reminded the Applicant that the funding for a decentralized staff of the Legal Department comes from a Region and as such “any decentralized [Legal Department] staff has to follow the policies followed by the respective Region.” He again brought to the Applicant’s attention that under the Bank’s policy staff members “pay rent for the first 30 days stay at the duty station from their relocation grant and commence rental cost sharing arrangement as of the 31st day. A rental contract should, therefore, be loaded in the system after the 30-day stay, regardless of whether the staff is in a temporary or permanent residence.” He finally told the Applicant that:

[The Chief Counsel] also told me that as a very special case, he has agreed to contribute from [the Legal Department’s] budget the expenses related to

your stay for one week (after the 30-day settling in period) at the daily rate for the Sheraton Hotel. I understand that this will be a deviation from stated policies of the [Africa] Region and this may create parallelism issues with [Africa Region] staff. However, since [the Chief Counsel] has already promised this as a special case, I agree to this expense to be met from [the Legal Department's] budget.

27. The Applicant declined to accept the Legal Department's offer to cover his hotel expenses for one week. In the meantime, he engaged in a dispute with the RM staff in the Africa Region regarding the number of air conditioning units to which he was entitled, at the Bank's expense, under the Bank's policy. The RM staff in the Region determined that the Applicant was entitled to "a 4-bedroom house (one master bedroom, two bedrooms for his dependent children, and one additional bedroom that could be used as either a guest or study), with seven [air conditioning units] (one for each of the 4 bedrooms, plus units for the kitchen, dining room and living room)."

28. The Applicant challenged this determination and wrote to the RM Analyst on 17 November 2008 as follows:

I would like to bring to the Regional Management's attention that I have a big problem with having to use one room in my residence to serve as both a study room and a guest room; a single room cannot accommodate those functions simultaneously. How am I supposed to use my study room whenever I have guests staying with me? My family is comprised of 4 children who have the right to visit me or to stay with me as frequently as they would want to, not to mention any other guests I might have.

While in Washington, I never used my home office to serve as a guest room; I am at a loss to appreciate why the Bank would require me to do such a thing just because I have volunteered to be decentralized. I am therefore requesting you to refer your decision to limit the number of air conditioners to be installed in my residence to senior management for appropriate determination of my claim.

29. On 27 November 2008 the Country Office requested the Applicant's clearance to allow workers into his residence to install seven air conditioners. He declined, insisting that he was entitled to ten air conditioners. He requested that the RM staff refer his claim

to senior management and sought intervention from the Country Director and the CAO of the Africa Region.

30. On 1 December 2008 the Country Director replied that he was not in a position to decide how many air conditioners would be appropriate, and that he had asked the RM staff to purchase the number of air conditioners that was not in dispute so that the Applicant could move in as soon as possible. On the same day, a Senior RM Officer of the Africa Region, responding on behalf of the CAO of the Region, told the Applicant that “the Bank will purchase 7 Air Conditioners for your residence and one Generator and these items should be installed over the coming weeks.”

31. The Country Office again sought the Applicant’s cooperation to install the seven air conditioners on 4 December 2008. Yet again, the Applicant put a hold on the process requesting that the air conditioners not be installed until he received a final answer from Washington about his claim for the ten units. This meant the Country Office had to “call off the contractor” scheduled to install seven air conditioners that day.

32. Finally on 10 December 2008 the Applicant granted access to install the seven air conditioners in his residence. The installation was completed on 14 December 2008. On 16 December 2008 he checked out of the Transcorp Hilton having incurred expenses of some NN 1,076,900 (approximately \$9,446).

33. The installation of the air conditioners, however, did not resolve the Applicant’s call for additional equipment and for the full payment of the hotel expenses by the Bank. Between February and May 2009 he continued to pursue his claims. The Africa Region on 27 May 2009 again told the Applicant that it would adhere to its standard practice regarding the provision of equipment and would not make any exceptions with respect to

the Applicant's request for payment of his hotel expenses. The Region told him that the Legal Department had already offered to pay his expenses for one week from its budget, but the Region would not cover any hotel expenses because he was expected to pay them from his relocation grant.

34. On 30 June 2009 the Applicant filed his Statement of Appeal with the Appeals Committee (now Peer Review Services ("PRS")) challenging the decisions: "(i) not to reimburse the [Applicant] for expenses he incurred on assignment to the Resident Mission in Abuja, Nigeria, including hotel expenses for the period from October 24, 2008 to December 16, 2008; and (ii) not to 'provide [the Applicant] with all other items of equipment he is entitled to under Staff Rule 6.17 including the [three] remaining air conditioning units, refrigerator, freezer, cooking stove, microwave, washer and dryer as spelled out in the [Applicant's] extended field assignment memorandum.'"

35. After conducting a hearing, PRS rejected the Applicant's claims, concluding that:

[T]he Panel unanimously finds that the Bank did not abuse its discretion by deciding not to provide the [Applicant] the additional equipment and appliances he requested, and by deciding to reimburse the [Applicant] for one week's hotel expenses.

Accordingly, consistent with the Bank's previous offer to the [Applicant], the Panel recommends that the Bank reimburse the [Applicant] for one week's hotel expenses at the Bank's negotiated rate with the Sheraton hotel in Abuja, Nigeria of NN 14,300 per night.

36. The Bank accepted the recommendation of PRS and accordingly offered to reimburse the Applicant for one week's hotel expenses.

37. The Applicant then filed this Application on 7 July 2010. Before the Tribunal he challenges the following:

Refusal by the Respondent to pay Applicant's hotel costs for period October 24 to December 16, 2008 incurred as a result of Respondent's

failure to provide, in timely manner, air conditioning units and power generator needed to make Applicant's rented residence in Abuja livable.

SUMMARY OF THE PARTIES' CONTENTIONS

The Applicant's contentions

38. The Applicant claims that the Bank should pay the hotel expenses in dispute for the following reasons. First, "Staff Rule 6.17 in effect in February 2008 when the relocation grant was disbursed to Applicant did not require Applicant to use the proceeds of this grant to cover 30 days hotel expenses upon arrival at the new duty station." Second, the hotel expenses were incurred because the Bank failed to equip, in a timely manner, the Applicant's rented house with air conditioners and a generator necessary to make it habitable. Third, the Applicant moved to the hotel with the express authorization of the Chief Counsel. The Applicant adds that the Chief Counsel "suggested 'a good option' was the Sheraton Hotel. That was no more than a suggestion and as Applicant had already moved into the Hilton Hotel, a hotel regularly utilized by Bank staff, he declined 'the option.'"

39. Finally, the Applicant states the Tribunal should provide the following relief: "(i) the reimbursement of the approximately 1,076,900 Naira (\$9,446) plus interest at 6% (\$1,133) for the period December 2008 to the expected decision in this case, i.e. approximately 2 years, or a total of \$10,579; (ii) fair compensation for inconvenience and discomfort suffered and for moral prejudice caused by Respondent's failure to honor its obligations vis-à-vis Applicant; and (iii) Attorney's fees."

The Bank's contentions

40. The Bank maintains, first, that under Staff Rule 6.17 the Applicant was not entitled to reimbursement of the hotel expenses he had incurred. The Bank contends that

under the 1 October 2008 version of the Rule, the relocation grant covers all lodging expenses for the first 30 days, “regardless of whether the lodging was in a hotel or a residence, temporary or permanent,” in order to ensure parity between staff across the different regions. Thus, under Staff Rule 6.17, the Bank had no obligation to reimburse him for the additional hotel expenses he had incurred. Moreover, the Applicant was on notice since the Memorandum, which the Bank issued on 27 December 2007 and the Applicant signed, stated that the relocation grant was to cover any hotel expenses associated with the relocation.

41. The Bank also contends that delays in obtaining the seven air conditioners and installing them were caused by the Applicant. The Bank adds that the Chief Counsel already made an exception for the Applicant and the Legal Department had agreed to pay his hotel expenses for one week. Finally, the Bank states that:

Applicant made the choice of renting a house in April 2008 that was not already equipped with air conditioners. He then chose not to do anything further about installing air conditioners until he actually moved to Nigeria on October 9, 2008. Applicant then impaired the Bank’s efforts to install seven air conditioners in his house because he wanted ten units. While engaged in that dispute, Applicant decided to move to the hotel of his choice, for a duration he felt was appropriate. He should take responsibility for his choices and decisions, and Respondent does not owe him additional compensation for them. There is no evidence that Respondent failed to apply its policies and procedures to Applicant in anything other than a fair and reasoned fashion, and provided him with the same generous relocation benefits accorded to all other staff. None of Respondent’s policies and procedures entitle Applicant to the relief he seeks.

THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

42. The Bank provides considerable relocation benefits to staff moving from Headquarters to a country office. These benefits are governed by Staff Rule 6.17 and

specific guidelines provided by each region of the Bank, in the Applicant's case by the Africa Region. The Applicant's benefits accordingly were outlined in the Memorandum.

43. The Applicant's final relocation package, according to the Bank, included, among others, the following benefits:

- (i) Relocation Grant of \$12,000 to cover the first 30 days lodging for him and his spouse at the duty station and any other incidental relocation expenses (e.g., in-and-out transportation, airport taxes, and housing finder's fees);
- (ii) Family Assistance Allowance of \$1,328 per month (set at 12% of the market reference point for Grade G net salary) to assist with impact of relocation on immediate family;
- (iii) Assignment Allowance of \$1,428 per month (equal to 10% of Applicant's net monthly salary) for unanticipated expenses such as currency fluctuations;
- (iv) Hardship Differential of \$1,660 per month based upon the UN hardship rating for Abuja;
- (v) Cost-of-Living Allowance, varying from approximately \$3,198 to \$4,340 per month in FY09, based upon relevant price indices for Abuja;
- (vi) Shipment of a 20-foot container of personal effects and furniture;
- (vii) Furniture and Equipment Grant ("F&E Grant") of \$15,000 to cover the costs of additional furniture and equipment needed during his assignment;
- (viii) Rental Allowance averaging \$1,976 per month in FY09, depending on the exchange rate, representing the difference between Applicant's personal rental contribution of 15% of the market reference point of Grade G net salary and Applicant's total rent of 500,000 Naira per month (that is, approximately \$3,246 per month); and
- (ix) Provision at Bank expense of seven A/C units, a back-up generator, voltage converters, stabilizers, and water pump for Applicant's residence.

44. In total, according to the Bank, the "Applicant's cash benefits for relocation totaled approximately \$10,000 per month in recurring payments, plus \$27,000 for the

one-time Relocation Grant and F&E Grant, over and above his regular salary and benefits.”

45. The record is clear that the Applicant received these benefits as part of his relocation package. The Applicant, however, claims that, in addition to the benefits set out above, he is also entitled to full reimbursement of hotel expenses of some \$9,446, which he had incurred during his stay in Abuja. These disputed hotel expenses are the sole issue in this Application.

46. The first question is whether the Applicant is entitled to reimbursement for the hotel expenses under Staff Rule 6.17, under the Africa Regional guidelines or under any terms of the Memorandum. The parties agree that the provision relating to “Relocation Grant” in Staff Rule 6.17 applies. The parties, however, disagree over which version of Staff Rule 6.17 applies. The Applicant argues that the “Relocation Grant” provision of Staff Rule 6.17 effective in February 2008 applies, whereas the Bank argues that the version in effect after 1 October 2008 applies.

47. *The Rule applicable in February 2008.* Assuming, first, that the February 2008 version of Staff Rule 6.17 applies here, the Tribunal is not convinced that the Applicant is entitled to reimbursement. That Rule provides:

Relocation Grant

3.06 The Bank Group will pay a relocation grant to a staff member posted on a headquarters or an extended assignment to help defray costs associated with preparations during a move to and settling in a new duty station, including the cost for transporting pets. The amount of relocation grant will be \$12,000 for a staff member relocating without dependent children, and \$15,000 for a staff member relocating with dependent children.

48. The Tribunal finds that under this version of Staff Rule 6.17, the relocation grant is paid as a lump-sum for “move to and settling in a new duty station.” Since the \$12,000

the Applicant received was a relocation grant in the form of a lump-sum payment, he was entitled to spend it as he saw fit, taking into account the purposes of the relocation grant. If, for example, it cost him less than \$12,000, he was at liberty to keep the surplus. On the other hand, if it cost him more, he was not entitled to claim more money. This is the very nature of the lump-sum payment, as opposed to itemized reimbursements for actual expenses incurred. The Tribunal, therefore, is not convinced that under this version of the “Relocation Grant” provision of Staff Rule 6.17, the Applicant was entitled to full reimbursement for all the hotel expenses he had actually incurred as part of his “move to and settling in a new duty station.”

49. The Applicant suggests that the February 2008 version of Staff Rule 6.17 did not require him to use the relocation grant for hotel expenses. The Applicant states that the February 2008 version

only refers to “settling in” expenses. In fact, Applicant requested the relocation grant and Respondent disbursed it in February 2008, precisely for the purpose of enabling Applicant to use the proceeds of such grant to defray the costs associated with preparations for his move to Abuja, including *inter alia* the cost of refurbishing his house in Washington for the rental market.

He adds that “Staff Rule 6.17 in effect in February 2008 when the relocation grant was disbursed to Applicant did not require Applicant to use the proceeds of this [relocation] grant to cover 30 days hotel expenses upon arrival at the new duty station.”

50. The Tribunal finds that under the February 2008 version of Staff Rule 6.17, it should have been clear to the Applicant that the purposes of the relocation grant included hotel expenses. The Memorandum, which was based upon the February 2008 version of Staff Rule 6.17, provided that:

Staff Rule 6.17, Section 3: Relocation Benefits

For relocation to Abuja, Nigeria, LEGAF will provide one-way air tickets (direct routing), by less than first class air, between Washington, DC and Abuja, for you and each eligible member of your immediate family. ...

To help defray expenses from relocating to this extended assignment, you will be paid a lump-sum relocation grant in the amount of \$12,000 *Such expenses include hotel*, in-and-out transportation, airport taxes, meals, and all other expenses related to relocation travel. (Emphasis added.)

51. Given this language of the Memorandum, it was clear that the relocation grant was intended to cover hotel expenses incurred in relation to the relocation. Moreover, the Bank provided briefings to the Applicant explaining its relocation benefits. The Bank states that the Applicant “was signed up for three Overseas Assignment Briefings offered by the Global Mobility and Worklife Program” and adds that “[a]t those briefings, staff were provided with full information about the Bank’s relocation benefits, and copies of the powerpoint slides were made available to all attendees.” Accordingly, the Applicant had ample opportunity to clarify any ambiguity relating to the relocation grant if he perceived any.

52. *The Rule applicable after 1 October 2008.* Staff Rule 6.17 (effective 1 October 2008), which the Bank contends is the applicable version, states:

Relocation Grant

3.05 The Bank Group will provide a lump-sum Relocation Grant to staff to assist with all the incidental expenses associated with relocation for staff and immediate family, at origin, in transit, and at destination. *Said expenses will include*, but are not limited to, miscellaneous travel and visa expenses, subsistence, lease and utility deposits, finders’ fees for real estate agents, and *30 days of hotel lodgings or rental expenses* at destination. The amount of the Relocation Grant will be \$12,000 for a staff member relocating without dependent children, and \$15,000 for a staff member relocating with at least one dependent child. (Emphasis added.)

53. The Tribunal does not see any material difference between the two versions. The only noticeable difference is that the October 2008 version elaborates on the intended purposes of the relocation grant. But under the both versions, the amount of the relocation grant is the same and is given to a staff member as a lump-sum payment.

54. The Bank maintains that the 1 October 2008 version should apply here because the Applicant relocated to Abuja on 9 October 2008. The Bank explains that under this version, staff members were expected to use the relocation grant, a lump-sum payment, to cover “30 days of hotel lodgings or rental expenses at destination.” The Bank explains that: “With the new rule, all staff would use their Relocation Grants to pay for their first 30 days of lodging, whether in a hotel or residence; after which all staff could commence the Bank’s cost-sharing arrangement from Day 31, again regardless of whether they were then in a hotel or residence.”

55. The Applicant argues that even under the 1 October 2008 version,

Rule 6.17 states simply hotel or rental. Applicant received his relocation grant in February 2008, rented a house in Abuja in April and began paying his rent soon thereafter. Therefore, under either the Bank-wide rule or the [Africa] region’s rule Applicant had already used his relocation grant in part for “rental” or temporary accommodation from the date of his agreement i.e. May 15, 2008; this represents already more than 30 days of actual rent payment.

56. In the understanding of the Tribunal, the Bank was required to pay 85% of the Applicant’s rent of the house, which he had leased effective May 2008. Thus when he stayed in the Hilton Hotel from 24 October 2008 to 16 December 2008, the Bank was already paying 85% of the rent of the leased house. The Applicant thus seeks to claim double benefits; he asks the Bank to subsidize his hotel expenses and simultaneously his rental expenses. The Tribunal cannot sustain the Applicant’s position. In fact, it appears that the Applicant understood that he could not claim reimbursement for the hotel

expenses under any version of Staff Rule 6.17. The Tribunal in this regard agrees with the Bank's observation that the "Applicant's petition to the Chief Counsel for special authorization to move to a hotel further underscores that he knew that such costs should normally be at his own expense, and that he was seeking an exception to the applicable policies to have the Bank bear any part of it."

57. In sum, under the terms of Staff Rule 6.17 and the Memorandum, the Applicant is not entitled to be reimbursed for the hotel expenses in question. Nor is he entitled to receive reimbursement under any guidelines from the Africa Region, and indeed he does not invoke any such guidelines. The Africa Region made it clear to the Applicant that hotel expenses associated with settling in must be paid from the relocation grant and that it could not make any exception for the Applicant.

58. The Tribunal will now address the question whether the Applicant is entitled to reimbursement of the hotel expenses because of the Bank's failure, as claimed by the Applicant, "to equip in a timely manner Applicant's rented house with air conditioners and a generator necessary to make it habitable."

59. The Tribunal does not so find. The Applicant himself states that between April 2008 (when he signed the lease) and October 2008 (when he actually moved to the house), he went to Abuja four times on Bank mission and stayed there for a considerable time on each occasion. For example, on one mission he was in Abuja from 29 July to 28 August 2008, i.e., for a month. Yet, he does not explain why he did not coordinate with the Country Office to determine the technical requirements for the air conditioners and the power generator.

60. When he finally relocated to Abuja on 9 October 2008, he engaged in a dispute with Bank officials regarding the number of air conditioners to which he was entitled at the Bank's expense. The officials of the Bank repeatedly told him that under the Bank's policy he was entitled to seven air conditioners and sought his permission to install them. He, however, demanded ten air conditioners and took an "all or nothing" stand.

61. The record is clear that on 27 November and 4 December 2008, the Bank sought the Applicant's permission to install the seven air conditioners but the Applicant refused, insisting that the Bank install all ten of them. The Applicant maintained this "all or nothing" position while he was staying at the Hilton Hotel even though the Chief Counsel told him on 26 October that: "I expect you to stay on top of it and to spare no effort to minimize the time to procure/install the equipment and to take up residence in the home you have leased as soon as possible."

62. The Tribunal notes that PRS, after conducting a hearing, concluded that the Applicant's

own behavior contributed significantly to the delay in procuring and installing the power generator and the seven air conditioning units in his residence. ... The Panel found no evidence that the Country Office provided poor or negligent assistance to [the Applicant] in the procurement and installation of the power generator and the air conditioners.

The Tribunal, based on the record before it, concludes that the Bank did not unreasonably delay the installation of the air conditioners and the power generator. Therefore, the Bank cannot be made to bear the hotel expenses at issue.

63. The Applicant refers to the fact that he moved to a hotel with the authorization from the Chief Counsel. The Tribunal does not find that the Chief Counsel made any commitment to pay all his hotel expenses. As early as 24 November 2008 the Legal

Department told the Applicant that it could make an exception for him and would cover his hotel expenses “at the daily rate for the Sheraton Hotel” for one week. This position of the Legal Department was not unreasonable given that the Chief Counsel asked him to move to the Sheraton Hotel to keep the expenses at a minimum. The Applicant does not show how the Legal Department was obligated to cover all his hotel expenses and the Tribunal does not find that such an obligation exists.

DECISION

For the reasons given above, 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, 25 May 2011