

Summary of BI (No. 4) v. IFC, Decision No. 540 [2016]

The Applicant challenged her (i) 2014 Performance Evaluation Plan (PEP) assessment; (ii) Salary Review Increase (SRI) rating; and (iii) placement on an Opportunity to Improve (OTI) plan.

The Applicant received a performance rating of 2 for Fiscal Year 2014 (1 July 2013 – 30 June 2014). On 12 December 2014, management provided the Applicant with an OTI plan.

In January 2015, the Applicant filed a Request for Review with Peer Review Services (PRS) challenging her 2014 PEP, her performance rating on her Fiscal Year 2014 performance evaluation, and the institution of an OTI plan. The PRS Panel found that the Applicant's 2014 PEP, performance rating and institution of an OTI plan were based on reasonable and observable basis. However, the Panel awarded the Applicant compensatory damages because it found that management did not provide the Applicant with an opportunity to address performance concerns during the 2014 PEP period. The Panel concluded that management did not act consistently with the Applicant's contract of employment.

The Tribunal addressed the IFC's preliminary objection in this judgment. The Tribunal held that the Applicant's challenge to the IFC's decision was not filed in a timely manner and the delay was not excused by exceptional circumstances. Her Application should have been filed within 120 days from the date that she received notice of the IFC's decision to accept the PRS recommendation in the Request for Review.

Decision: The Tribunal found that since she filed her Application more than two months after the deadline, her Application was inadmissible.