

Summary of BI (Nos. 6 and 7) v. IFC (Preliminary Objection), Decision No. 574 [2017]

The Applicant challenged the following: (i) her 2015 Performance Evaluation Plan (PEP); (ii) her 2015 Salary Review Increase (SRI) rating; (iii) the implementation of her Opportunity to Improve Plan (OTI); (iv) the decision by management to terminate her employment; (v) her placement on administrative leave; and (vi) the restriction on her access to Bank Group premises.

The parties agreed that the Applicant's claims concerning (i) the Applicant's OTI process, (ii) the decision by management to terminate the Applicant's employment for unsatisfactory performance, and (iii) the decision by management to place the Applicant on administrative leave and restrict her access to the Bank Group premises are properly within the Tribunal's jurisdiction. The IFC filed a preliminary objection regarding the Applicant's other claims.

With respect to the Applicant's claims concerning her 2015 PEP and SRI rating, the IFC argued that the tolling of time on the claims began on the date the Applicant was notified of her SRI rating and the date she received her PEP completed by her supervisor and Reviewing Official. The IFC contended that the Applicant filed her Request for Review with Peer Review Services more than 120 days after she received notice of her 2015 PEP and SRI rating.

In response, the Applicant argued that the tolling of time on her claims began on the date she chose to confirm the SRI rating and performance evaluation in the Bank Group's performance management system.

The Tribunal found that the Applicant did not request review of the contested decisions to Peer Review Services in a timely manner, thereby failing to exhaust internal remedies. Furthermore, the Tribunal found that there were no exceptional circumstances in this case that would justify a late filing.

Decision: The Tribunal upheld the Bank's preliminary objection with respect to the Applicant's claims regarding her 2015 PEP and SRI rating. The Tribunal found that the Applicant's claims regarding (i) the implementation of her OTI; (ii) the decision to terminate her employment; (iii) her placement on administrative leave; and (iv) the restriction on her access to Bank Group premises are admissible.