

Daniel Lecuona, Decision No. 484 [2013]

The Applicant challenged the decision of the Pension Benefits Administration Committee (“PBAC”), which upheld the decision of the Pension Benefits Administrator, to deduct spousal support payments in the amount of \$1,500 from the Applicant’s monthly pension and pay them directly to Nélide Cubile-Lecuona, his legally separated wife.

In this case, the Pension Benefits Administrator and PBAC based their decisions on Article 5.1(c) of the Staff Retirement Plan (“SRP” or “Plan”). Under the Bank’s practice, pursuant to Section 5.1(c) of the SRP, the Pension Benefits Administrator requests evidence of the following two requirements prior to approving spousal support claims: (i) the legal separation or divorce of the parties; and (ii) a legal obligation of the participant or retired participant to pay spousal support from his or her pension benefits under the SRP. The Applicant argues that the requirements have not satisfied in this case.

The Tribunal rejected the Applicant’s arguments and found in favor of his separated wife and PBAC. The Tribunal noted that the “underlying policy rationale of [Article 5.1(c)] was to protect the interests and welfare of the retired staff members’ former spouses” and thus the “context and the purpose of Section 5.1(c) must be taken into account in addressing the issues.”

The Applicant first argued that Section 5.1(c) required a formal decree of legal separation applying the right provisions of a country’s domestic law, and that a court order that merely directs the couple to live in separate domiciles is not enough. The Tribunal rejected such a rigid and formalistic approach. The Tribunal observed that: “The Pension Benefits Administrator needs only to determine whether a “decree of legal separation” or its functional equivalent has been presented for the purposes of Article 5.1(c). If the Administrator has a reasonable and objective basis to conclude that the decree at issue meets the terms of Article 5.1(c), the Tribunal will not set aside such a finding.” The Tribunal concluded that “it was not unreasonable for the Administrator and PBAC to conclude that a court order that establishes the separation of a couple that has endured for more than 12 years satisfies the requirement that there be a ‘decree of legal separation’ for the purposes of Article 5(1)(c).”

The Applicant also argued that he had filed an appeal against the court orders on which his separated wife relied to demonstrate his legal obligation to pay spousal support. He contended that until the appeal process was complete, the courts orders were not final, and therefore, the requirement of Article 5.1(c) had not been met. The Tribunal noted that the “ordinary meaning or usage of the term ‘final’ is not necessarily ‘non-appealable,’ and it is not necessarily the case that an order becomes final only after an appeal process is completed. It is reasonable to define the term ‘final order’ in the sense that it is final in the particular court in which it was pronounced even though the order might be the subject of appeal. The Tribunal noted that “interpreting ‘final order’ to mean ‘unappealable order’ could frustrate the object of Section 5.1(c) because, in some legal systems, a retiree could delay implementation of a court order by repeatedly filing appeals against it.” The Tribunal agreed with PBAC and the Administrator that in this case the court orders at issue were final even though there was an appeal because they were final in the court that issued it and entered into law in the applicable jurisdiction so as to be enforceable and legally binding.