



World Bank Administrative Tribunal

2020

Decision No. 640

**FS,
Applicant**

v.

**International Bank for Reconstruction and Development and
International Development Association,
Respondents**

(Preliminary Objection)

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

**FS,
Applicant**

v.

**International Bank for Reconstruction and Development and
International Development Association,
Respondents**

1. This judgment is rendered by a panel of the Tribunal, established in accordance with Article V(2) of the Tribunal's Statute, and with the participation of Judges Andrew Burgess (President), Janice Bellace, Seward Cooper, and Lynne Charbonneau.
2. The Application was received on 24 June 2020. The Applicant represented herself. The Bank Group was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 6 November 2020.
3. The Applicant is challenging the 29 January 2020 decision of the Workers' Compensation Administrative Review Panel (ARP) denying her claim for workers' compensation.
4. The Bank Group filed preliminary objections to the Application on 7 August 2020. This judgment addresses the Bank Group's preliminary objections.

FACTUAL BACKGROUND

5. The Applicant joined the International Development Association in May 2002. The Applicant served as a Liaison Officer, Grade Level GF, with the Guinea-Bissau Country Office.
6. According to the Applicant, in 2012 following a coup d'état that April, the Bank Group downsized the Guinea-Bissau office, relocating other staff to Kenya and Senegal and leaving the Applicant as the only staff in the office from December 2012 to January 2016, during which time she operated without administrative or logistical support. The downsizing of the office, effective

September 2012, also involved relocating the office to space within the United Nations premises in December 2012.

7. In November 2013, the Bank Group's Information Technology (IT) department installed a "server rack" for purposes of internet connectivity in proximity to the Applicant's workspace in the new office. According to the Applicant, she experienced health symptoms, which first occurred in February 2014, in relation to the server rack. She consulted a medical doctor regarding her symptoms on 26 February 2014. According to the Applicant, "my doctor's first medical recommendation called for relocation of the internet server rack or the transfer of my workstation to another office, having these, however, [...] completely ignored by the Country Directorate."

8. In a 23 March 2014 email to an Information Analyst in Dakar, Senegal, the Applicant raised the concern that the server rack posed a health hazard through "gas and heat emissions" which she alleged made her ill. Specifically, the Applicant noted, "The minute I enter the office I feel nausea and other physical disturbances." The Applicant further stated:

Last time I had strong and long exposure to the exhausters (part of which blows directly on top of me/my desk), I felt real bad with chills, pinching (all over my body, particularly the exposed areas) and feverish symptoms. After leaving the office, I immediately ran to buy Aloe Vera Cleansing Mixture to cleanup toxins from my body. [I] did a Malaria test but was negative.

I visited a Doctor who prescribed me some Anti-Histaminic and told me that the immediate therapy was to stay immediately away from the site as excessive exposure could lead to permanent health damages (i.e. nervous system, liver, etc.) and illness. I am still undergoing medical consultations and clinical tests.

On the basis of the above, and following-up on our previous telecoms, has there already been any IT/RM [Resource Management] interim solutions while the office situation is still pending?

9. The Applicant began to work from home in March 2014. According to the Applicant, this was due to the lack of an option of an alternative office space from the Bank Group and her deteriorating health due to the server installation.

10. On 12 May 2014, the Bank Group’s Health Regional Medical Adviser (HRMA), emailed the Applicant concerning the situation with the server rack and asking for “a notification from [the Applicant’s] treating physician in Bissau in order to be able to assess the current situation.” On 26 May 2014, the Applicant sent her medical records from a 23 May 2014 visit to Hospital Nacional Simão Mendes, Department of Medicine, Ambulatory Service, and prepared by a physician, to the HRMA. The medical records included the following:

Current health effects: Patient with above health history, apparently healthy with complaints of nausea, chills, body pinching, particularly in exposed areas, feeling of fever, profound discomfort and numbness in upper extremities, leading to several consultations, having however nearly nothing been detected; she was recommended anti-malaria treatment, despite negative tests. It is worth noting that, according to her, these symptoms occurred 3 months after the installation of an electronic equipment next to her workstation.

Probable Diagnosis:

Polineuropathy [*sic*] of a cause to be clarified

Recommendations for the Office:

[...] Relocate the equipment or temporarily transfer the workstation

Proposals: With scarcity of diagnosis means we are unable to clarify the suspected pathology, therefore, we request that she be evacuated to a specialized center in occupational medicine for such a purpose, given the inexistence of such specialty in the country.

11. The record shows that on 22 September 2014 the Applicant emailed the HRMA “to check on the possibility of getting human assistance under the Disability Accommodation,” and further stating, “I am a polio survivor using a long leg kafo brace and a support crutch.” The Applicant’s email appeared to request support for a driver to assist her in official tasks.

12. On 7 November 2014, the HRMA emailed the Applicant and stated, “Following the process of environmental assessment the Bissau CO [Country Office] will undergo in a few weeks, I would like to propose you to come to Dakar for a medical assessment in regards of the symptoms you developed. Could you let me know when you will be available for?” The Applicant responded on 10 November 2014 stating, “I am currently ill and getting some medical treatment. As soon as my

condition improves will let you know the timing.” This illness was unrelated to the alleged server symptoms.

13. In May 2015, an environmental assessment of the Bank Group’s Guinea-Bissau office space (the Environmental Assessment) was carried out by a technical team from an external firm, Assembene Conception. The Environmental Assessment had been delayed due to an Ebola outbreak, and the final report of the Environmental Assessment was issued in June 2015. The report found that electromagnetic emissions exceeded the normal safety standards.

14. On 15 July 2015, the Country Director emailed the Applicant and asked for her “medical report to ensure we have documentation explaining your lengthy home base[d] work stay.” The Applicant sent the 23 May 2014 medical records to the Country Director via email and noted, “I would like to recall that the report reflects a medical evaluation carried out in May 2014, a year before the undertaking of the office environmental assessment, hence representing a ‘pre-environmental assessment health evaluation.’” The Applicant also requested a copy of the Environmental Assessment from the Country Director.

15. According to the Applicant, she was denied access to the full Environmental Assessment report issued on 18 June 2015. The Country Director shared a summary of the Environmental Assessment with the Applicant, via email, on 9 August 2015. That summary email from the Country Director included the following statements:

[In] May 2014 [the Applicant] reported a bad medical condition related to electromagnetic radiation in her office in Bissau coming from the rack of routers within the office.

A medical report from her treating physician followed her complaint, requiring a medical assessment to confirm that the symptoms she developed [were] linked or not to the rack.

[The previous Country Director] decided to proceed to an environmental evaluation.

[...]

The conclusion[s] received from ASSEMBENE CONCEPTION on June 18, 2015 are:

[...]

- The emission of electro-magnetics radiations is over the normal required by the safety standards in terms of perimeter of exposition or isolation. An action will be necessary from our IT specialists.

At this stage, there is no element to determine a real impact on staff's health, however the environmental standard[s] from the International Labour Organization (ILO) are not fully respected by The World Bank Group.

16. An IT staff member traveled to the Guinea-Bissau office from 20 to 28 July 2015 to look into possibilities for removing the server rack.

17. In October 2015, the Bank Group had discussions with the Applicant regarding the redundancy of her position due to a restructuring of the Guinea-Bissau unit which would no longer require her skill set. In a 5 November 2015 phone call with Human Resources (HR) regarding departure options, possibilities of a Mutually Agreed Separation due to redundancy versus a redundancy option were discussed with the Applicant, with the Applicant ultimately opting for the redundancy separation from the Bank Group, as confirmed in writing in an email with the Country Director dated 17 December 2015. According to the Applicant, she was denied opportunities to retrain for possible reassignment elsewhere in the Bank Group.

18. A medical report concerning the Applicant dated 11 December 2015 reflecting her visit to Hospital Nacional Simão Mendes, Department of Medicine, Emergency Service, and again prepared by the same physician as the 23 May 2014 report listed “[n]ausea, headache, joint pain in the hands, and chest tightness” as the reason for consultation. The “Probable diagnosis” was noted as “[l]abor-related health effects to be clarified.” The “Recommendation” listed in the report stated, “With scarcity of diagnostic means in the country, one cannot clarify the pathological suspicion, so it is requested that the patient is evacuated to a center specializing in Occupational Medicine.”

19. The Applicant's redundancy took effect on 25 January 2016, with administrative leave for a six-month job search period also beginning on that date. The Applicant separated from the Bank Group on 25 July 2016. Prior to the redundancy taking effect, the Applicant filed a claim on 31

December 2015 for workers' compensation with the Bank Group's Claims Administrator, at the time the Reed Group. The Applicant's workers' compensation claim continued from initial filing in December 2015 through to 2020, during which time the Bank Group's Claims Administrator changed to Broadspire in 2018.

20. On 15 February 2016, the Workers' Compensation Adjuster for the Reed Group emailed the Applicant regarding her claim and stated, "I have been trying to reach you without any success, can you please let me know the best time and phone number to reach you to discuss your possible claim?" The Reed Group records indicate a series of attempts to get in touch with the Applicant during February 2016. The Applicant disputes this. The Reed Group records of 3 March 2016 indicate that contact was made with the Applicant regarding the possibility of short-term disability. The Reed Group records of 14 April 2016 note, "WC [workers' compensation] Claim forms have not been received, unable to make a claim determination. Will email the [staff member] and remind her that we must receive claim forms to make a determination." An email was sent to the Applicant regarding same on that date.

21. The Applicant submitted the Workers' Compensation Claim Form (the Claim Form) to the Claims Administrator on 20 June 2016. On the Claim Form, the Applicant stated, "Illness occurred after chronic overexposure to Electromagnetic Radiations (EMRs) and other electronic emissions from an Internet Server installed in a tiny, common office space of the World Bank Office in Guinea-Bissau in November 2013. First recalled symptoms occurred February, 2014." On the Claim Form, in response to the question "Do you know what caused this illness?" the Applicant further stated, "Chronic and overexposure to EMRs and other toxic electronic substances in the office." In response to the question "Are you still under medical treatment?" the Applicant stated, "I am still seeking medical assistance and doctors have recommended medical evacuation to determine diagnostic of health symptoms."

22. According to the Applicant, on 19 September 2016, she submitted two office inspection reports to the Claims Administrator as additional supporting evidence. These reports were a "Joint Technical Report" of 15 September 2015 and an "Office Inspection Report" of 3 July 2015 meant,

according to the Applicant, to “[report] on the working conditions at the Bank office in my past three years of work.”

23. On 13 January 2017, the Workers’ Compensation Adjuster emailed the Applicant following up on further information in support of the Applicant’s claim and stating, “I reviewed your file and when we last spoke you expressed to me that you would be forwarding information to support your claim. I note that we received a report from the Attorney General. Does this report conclude the submission of evidence in support of your claim?” There was no immediate response from the Applicant.

24. The Claims Administrator’s case notes of 10 February 2017 state, “File reviewed. No medicals with diagnosis received. Will continue to follow.” The 14 February 2017 notes state, “The staff [m]ember did to [sic] respond to my emails, the documentation in the file [is] insufficient to determine a diagnosis.” The 21 February 2017 notes state, “I [Workers’ Compensation Adjuster] will close my side of the claim, the [staff member] never responded to my email.”

25. In 2017, the Claims Administrator closed the Applicant’s claim.

26. On 3 April 2017, the Applicant responded to the Claims Administrator’s 13 January 2017 email indicating that she had already submitted the requested documents a “long time ago” and referring the Workers’ Compensation Adjuster to “past communications on the subject.”

27. On 31 December 2018, the Applicant sent an email to the President of the World Bank Group, the Claims Administrator, the Tribunal, and the Bank Group’s HR department. In the email, the Applicant noted that she “was harmed in several occasions by the Senegal Regional Directorate” and further stated:

To date these criminal wrongdoings remain unaddressed despite notifications to concerned WB departments, submission of required forms and documents, etc., as per Senior HR and REED Group guidance and in accordance with the appropriate Internal Staff Rules.

This message is a gentle reminder on these critical outstanding matters and others as per earlier documents submitted to the Human Resources, Workers' Compensation and Disability Departments.

28. On 6 February 2019 a Team Manager from Broadspire, the Bank Group's new Claims Administrator, emailed the Applicant stating that her claim was being reviewed. On 8 February 2019, the Applicant sent an email to the Claims Administrator containing the summary of the Environmental Assessment she had received from the Country Director as supporting material for her claim.

29. On 25 April 2019, the Claims Administrator denied the Applicant's claim for workers' compensation. As stated in the denial letter to the Applicant, "[a] thorough review and investigation of this claim for Workers' Compensation benefits has been completed. We regret to inform you that we are unable to approve your claim as it does not fall within the Workers' Compensation guidelines. Based upon our review, we found that your illness/injury did not arise as a direct result of your employment."

30. On 17 May 2019, the Applicant requested that the Claims Administrator reconsider her claim, on the basis that the denial "is scientifically unfounded in absence of diagnosis from specialized medical centers abroad as recommended in several reports by my Attending Physician in view of unavailability of required medical expertise in Guinea-Bissau." The Applicant's request for reconsideration also stated, "Moreover, I would also like to request copies [...] of the documents reviewed by Broadspire in the course of investigation of the Claim as per the listing provided in your letter of April 25, 2019." The Applicant sought review on the basis that the "Claims Administrator did not correctly follow the procedures established by 'Workers' Compensation Program – Claims Procedure.'" The Applicant's reconsideration request noted that she should have been contacted and interviewed by the Claims Adjuster and case manager, and that she should have been evacuated to specialized centers for medical evaluations and, without such, "the April 25, 2019 WC Claim denial was scientifically, hence legally unfounded." The Applicant's request for reconsideration also noted:

The date posted on the WC denial letter as being the "Date of Illness/Injury: 1/28/2016" does not correspond to the date of initial health symptoms stemming

from exposure to the office internet server rack/[Network Communications Room]. Per the “Workers’ Compensation Claim Form” submitted on June 30, 2016 [...] it was clearly indicated that “[...] First recalled symptoms occurred February, 2014.”

Further, the Applicant noted that on the Claim Form she had indicated that “[m]edical recommendations call for evacuation to specialized center abroad to diagnose the illness” in the section regarding “Diagnosis of Injury/Illness.”

31. It is not clear from the record that the Claims Administrator explicitly denied the Applicant’s request for reconsideration of her claim, but on 2 October 2019 the Claims Administrator issued its position statement, which was communicated to the Applicant in an email dated 16 October 2019. In its position statement, the Claims Administrator took the position that the Applicant’s workers’ compensation claim should be denied on the following grounds: “(a) she failed to file her claim timely and (b) she failed to establish the existence of an occupational disease through credible medical evidence.” The Applicant was notified that she had 30 days from the date of the email to file any rebuttal to the Claims Administrator’s position statement and that, once any rebuttal was received, the ARP would rule on the matter.

32. On 14 November 2019, the Applicant filed an appeal of the Claims Administrator’s decision with the ARP.

33. On 29 January 2020, the ARP affirmed the denial by the Claims Administrator, similarly finding the Applicant’s claim to be time-barred under Staff Rule 6.11 and stating that “the Claimant should have filed her claim for workers’ compensation benefits by May 23, 2015, within 12 months after the date she became aware or should have become aware of the relationship between her alleged illness and her employment with the World Bank Group.”

34. On 24 June 2020, the Applicant filed this Application with the Tribunal seeking review of the ARP decision. In her Application, the Applicant requests compensation in connection with a number of alleged grievances. With respect to the alleged health hazards in the office which form the basis of her workers’ compensation claim, she states that she seeks the following:

- (a) Compensation for isolation, confinement, severely precarious and hazardous working conditions;
- (b) Compensation for unsecure and unsafe working environment;
- (c) Compensation for overexposure to office electromagnetic (EMRs) radiations above safety levels;
- (d) Compensation for denied normal and disability working accommodations;
- (e) Compensation for severe limitations of labor resources;
- (f) Compensation for zero logistical and human resources;
- (g) Compensation for 3.2 years of forced/slavery-type labor (brutal accumulation of functions from December 2012 to January 2016), when similar office tasks are now being carried out by six staff members;
- (h) Compensation for denied access to the UN onsite Dispensary as first aid measure, given Claimant's exposure to high risk and hazards in office isolation/isolation;
- (i) Compensation for *a posteriori* labor discrimination and rules violations stemming from striking *a posteriori* improvements in the office working conditions [...].

35. The Applicant also requests compensation for the use of her home space and facilities during the period of home-based work, and “[c]ompensation for the timing, distress and extraordinary burden caused by the deliberate and consistently overlooking/ignoring/neglecting essential facts of matters provided by the Claimant/staff in the various WC claim submission appeals [...]” The Applicant also submitted a request for costs seeking “reimbursement of expenses incurred with the preparation of the Workers’ Compensation Claim from the inception to the final stages” and including administrative expenses and reimbursement for legal consultations.

36. On 7 August 2020, the Bank Group filed preliminary objections challenging the Application as inadmissible and thus seeking dismissal on jurisdictional grounds.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Bank Group's Main Contentions

37. The Bank Group contends that the Applicant's claims are inadmissible pursuant to Article II, paragraph 2(i), of the Tribunal's Statute and its case law. According to the Bank Group, the Applicant failed to comply with the statutory requirement to exhaust internal remedies by failing to observe the time limits for the submission of an internal complaint or appeal. Specifically, the Bank Group submits that the Applicant filed her claim for workers' compensation late. The Bank Group contends that the Applicant does not offer any exceptional circumstances to excuse her failure to meet the time frame requirements, and that it is the Applicant's responsibility to familiarize herself with the rules of her employment.

38. According to the Bank Group, pursuant to Staff Rule 6.11, which governs workers' compensation at the Bank Group, the Applicant is required to file a claim for workers' compensation "within twelve months of becoming aware (or by exercise of reasonable diligence, should have become aware) of the relationship between her illness and her employment with the World Bank." According to the Bank Group, the Applicant "believed that her alleged illness was a result of the electromagnetic emissions from the server rack as early as February 26, 2014, however, she only filed a workers' compensation claim on December 31, 2015, more than ten months late." The Bank Group contends that the Applicant "consistently confirms that she was first aware of the alleged link between her illness and her employment in the months leading up to February 2014, and in any event on February 26, 2014." Moreover, the Bank Group asserts that the record in this Application specifically indicates the "concrete" date when the Applicant became aware of her symptoms and the alleged relationship to her employment with the Bank Group – 26 February 2014. The Bank Group contends, "To the extent the right is specific and identifiable, the counting of the limitation period will begin on the date the right arose, in this case February 26, 2014."

39. The Bank Group claims that the Applicant acknowledges both that she first became aware that her illness may be a result of her work environment on 26 February 2014 and that her illness

was first diagnosed on 26 February 2014. The Bank Group contends that the Applicant's assertion that she conducted "reasonable diligence" in February 2014 in order to "preliminarily establish objective linkage between [her] occupation/employment and resulting illness" only serves to support the Bank Group's position; that is, that the Applicant was aware of the alleged relationship between the server rack and her health in the months leading up to 26 February 2014 and should have filed her workers' compensation claim within twelve months of this date.

40. The Bank Group cites *Hayati (No. 2)*, Decision No. 311 [2004], para. 6, to suggest that the scope of the Tribunal's review for purposes of ARP appeals "is limited to reviewing the decision of the [Administrative] Review Panel, by reference to the evidence before that body, with a view to determining whether the conclusion reached by the Review Panel could be reasonably sustained on the basis of that evidence and also whether the Review Panel has acted in accordance with the relevant legal rules and procedural requirements." The Bank Group states that the Claims Administrator's decision "was reasonable, founded on the evidence before it, and in compliance with the Staff Rules." The Bank Group purports that "[t]he ARP carefully considered the medical records available, as well as all the documentation Applicant had submitted and determined that, taking the date most favorable to the Applicant, Applicant should have filed her claim for compensation no later than May 23, 2015." In particular, the Bank Group contends that the record the ARP considered includes that the Applicant started experiencing symptoms in February 2014, which she believed to be related to the alleged office exposure, and that she saw a doctor for these symptoms on 26 February 2014 and again on 23 May 2014, at which point she was provided a "probable diagnosis."

41. The Bank Group contends that the Application should be dismissed because the Applicant failed to exhaust internal remedies by not meeting the time constraints of Staff Rule 6.11. The Bank Group further notes that "[t]he Tribunal strictly interprets the requirement to exhaust internal remedies and has emphasized the utmost importance of this requirement in advancing both efficiency and fairness."

42. To the Bank Group, the Applicant did not file her claim for workers' compensation until almost two years after becoming aware of her illness and this "failure to seek timely review deprives management of the ability to consider and, if necessary, address any deficiencies."

43. Finally, the Bank Group contends that the Applicant was afforded all her due process rights in accordance with the Staff Rules and the "Workers' Compensation Program – Claims Procedure" (the Procedure) under Staff Rule 6.11 and that any other alleged facts and claims raised in the Application but unrelated to the decision of the ARP regarding workers' compensation are irrelevant and beyond the scope of review of the Tribunal for failing to meet the requirements of Article II, paragraph 2(i) and (ii), of the Tribunal's Statute regarding exhaustion of internal remedies.

The Applicant's Response

44. The Applicant contends that her claim for workers' compensation should not have been denied. She asserts that her claim was not time-barred because she never received a diagnosis regarding her illness and, in her view, diagnosis is key to determining compensability. The Applicant reasons that "diagnosis is an important step missing in this claim case" and that the lack of diagnosis was due to the Bank Group's failure to evacuate her from Guinea-Bissau "to a specialized center abroad for appropriate medical evaluations as per 2014 and 2015 doctor's recommendations." The Applicant contends that her diagnosis should have been facilitated by the Bank Group pursuant to Staff Rule 6.07, paragraph 5.01(c).

45. As invoked by the Applicant, Staff Rule 6.07 deals with the Bank Group's Health Program and Services, with paragraph 5.01 providing as follows:

The Director, Health Services Department [HSD], shall establish such programs for monitoring and assuring the safety of the Bank Group workplace and staff as are consistent with established occupational health practice. These programs shall include, but not be limited to:

- a. Monitoring Bank Group facilities and working conditions for hazards to staff in the areas of safety, ergonomics and epidemiology, with recommendations for preventive or corrective actions as needed.

- b. Fitness for duty assessments as warranted for those staff exposed to hazardous substances or working conditions, or whose duties affect the safety of others.
- c. Regular medical screening, at Bank Group expense, for staff potentially exposed to safety and occupational health hazards as determined by HSD.

The Country Director/Manager, if possible, shall consult with the Director, Health Services Department, in situations relating to public health emergencies or environmental issues, to determine appropriate steps to protect the health and safety of staff.

46. The Applicant contends that her doctor “always referred to ‘probable diagnosis, pending diagnosis abroad,’” and she holds that it is in fact diagnosis and not timeliness that is central to her workers’ compensation claim and to the denial by the Claims Administrator. The Applicant contends that she filed her claim less than one month after her doctor’s medical report made “a direct formal link between illness and professional occupation [re ‘probable diagnosis – work-related illness of a cause to be clarified’ [...]],” (outer brackets in original) and that the report also reiterated the need for “evacuation to a specialized center in Occupational Medicine abroad.” According to the Applicant, Guinea-Bissau is not equipped to conduct medical diagnoses pertaining to electromagnetic radiation and she “never had a chance to have one done” due to the Bank Group’s neglect in supporting her doctor’s recommendation of a medical evacuation.

47. In these respects, the Applicant reasons that paragraph 3.02 of the Procedure and Staff Rule 6.07, paragraph 5.01(c), must be considered in combination. Staff Rule 6.11 governs the Bank Group’s Workers’ Compensation Program, and paragraph 3.02 of the Procedure under Staff Rule 6.11 provides the time limits on filing a claim:

Claims must be submitted to the Bank Group’s Claims Administrator within 12 months after the illness is diagnosed or the injury or death occurs, or if later, 12 months after the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between the Staff Member’s employment and his/her illness, injury or death.

48. The Applicant purports that the correct time frame of her claim stems not only from her “strict observation” of Staff Rule 6.11 but also from the Country Director and HRMA/HSD positions; positions which, the Applicant contends, considered observation of Staff Rule 6.07,

paragraph 5.01(a) and (c) (through the May 2015 Environmental Assessment and the November 2014 proposal to medically evacuate the Applicant to Dakar), pursuant to the Applicant's allegations of exposure to electromagnetic radiation. The Applicant asserts, therefore, that she sought to pursue and exhaust internal remedies within the Bank Group and to be certain about her work-related injuries prior to claiming workers' compensation. She contends, "The long delays in complying with Staff Rules 06.07(5.01)(a) were linked to Respondent's own internal managerial inefficiencies, gross negligence and inaction, in handling Applicant's safety and labor issues from December 2012 to January 2016."

49. With respect to the time limits of Staff Rule 6.11, the Applicant holds that her filing was timely. In her view, the relevant time frame for Staff Rule 6.11, paragraph 3.02 of the Procedure, is 9 August 2015 to 8 August 2016. The Applicant suggests that Staff Rule 6.11, paragraph 3.02 of the Procedure, provides "three optional claim filing timeline requirements" and contends her view of the timeline is based on following the third option as she reads paragraph 3.02 – "or by the exercise of reasonable diligence should have become aware of the relationship between the staff member's employment and his/her illness."

50. The Applicant notes that she conducted "[s]everal reasonable diligences [...] to assess the office environmental, occupational, health and safety conditions and ascertain the linkage between her occupation/employment and the illness developed following EMRs overexposure," and that these were "particularly critical in absence of the required conclusive medical diagnosis." This includes her requests for the testing of electromagnetic radiation emissions in the Bank Group office from the Guinea-Bissau government, which resulted in two inspection reports. The Applicant offers a distinction between an objective/scientific and a subjective awareness with respect to Staff Rule 6.11. The Applicant asserts that she emphasized an objective/scientific approach to determining the potential health hazards in the office and her exposure to them, hence the request for government inspections, rather than taking a subjective approach to the issue of "awareness of her illness" which the Applicant notes "indeed came to occur [...] on February 26, 2014, date of [the Applicant's] first doctor's visit." As it pertains to the Staff Rule 6.11 time limits, the Applicant claims that 15 September 2015 is when she "became objectively aware of the presence of electro-magnetic radiations in the office" through the issuance of the Joint Technical

Report that established the relationship between her exposure and illness and that started the clock for Staff Rule 6.11. However, she contends that she is willing to accept a more conservative timeline which begins when she received the summary of the Environmental Assessment from the Country Director on 9 August 2015.

51. The Applicant sees the transmission of the summary of the Environmental Assessment on 9 August 2015 “as the date she became objective/scientifically aware of the relationship between her electro-magnetic radiation exposure and resulting health symptoms, that is ‘employment-illness relationship.’” She therefore contends that she is within the Staff Rule 6.11 twelve-month filing timeline because she filed her claim on 31 December 2015, well before 8 August 2016 which is her view of the cutoff date. The Applicant reasons that the period between 23 May 2014 and 8 May 2015 was not the filing period for her workers’ compensation claim but rather a period of planning the May 2015 Environmental Assessment. She further contends that the “Bank’s long delay in arranging for the EA [Environmental Assessment] mission (i.e. Ebola outbreak) caused a delay in the resolution of the EMRs issues, thus automatically expanding the WC claim filing timeline.” Further, the Applicant contends that the earlier time limits suggested by the Bank Group are “simply unconceivable, going against the Staff Rules 6.07(5.01)(a).”

52. The Applicant therefore contends that the Bank Group misrepresents the filing timeline for her claim and that this was also incorrectly interpreted and applied in the Claims Administrator and ARP decisions. She alleges that the ARP evaluation of her claim completely ignored critical information, documents, and reports that she submitted in support of her claim, which reflect “key occurrences in the interim stages between May 23, 2014 and December 31, 2015,” and are essential to determining the “real timeline” to file her claim. With respect to the Claims Administrator’s determination of 25 April 2019, the Applicant suggests that the Claims Administrator erred in failing to consider the Environmental Assessment, which the Applicant says supports her argument of hazardous exposure, in its evaluation of her claim. Further, the Applicant claims the 2 October 2019 determination by the Claims Administrator, which she notes found “failure to establish the existence of an occupational disease,” is invalid due to the Bank Groups’ failure to evacuate the Applicant for medical tests abroad thereby preventing a conclusive diagnosis of her illness. The Applicant contends that, when the HRMA proposed she go to Dakar for a medical assessment of

her symptoms, she was unable to travel “at the proposed time due to other serious health complications.”

53. The Applicant further suggests that the Claims Administrator acted in bad faith with respect to her claim. She states that in October 2019 the Claims Administrator changed its position and found that the “Claimant failed to establish the existence of an occupational disease through credible medical evidence,” begging the question “what medical records did [the Claims Administrator] use to affirm the inexistence of relationship between the Claimant’s employment/occupation and illness in April 2019?” The Applicant further contends that the Claims Administrator in its first determination on her claim did not find a violation of the applicable time limits. The Applicant also contends that the Claims Administrator (the Reed Group) “never notified [her] that her claim was deemed complete or incomplete, hence violat[ing] the Rules,” specifically paragraph 4.05 of the Procedure. She alleges that the absence of her 3 April 2017 email in the Claims Administrator case notes “is evidence of bad faith and pre-meditation to hide true facts to invalidate the claim and cause harm to Applicant,” and that the Claims Administrator closed her case file too early without first corresponding by post in addition to via email.

54. The Applicant also contends that her alleged exposure to electromagnetic radiation emissions was exacerbated by the small size of the office and her long working hours as well as her “physical vulnerability due to disability and use of metallic orthotics and a crutch and still the presence of mercury teeth fillings, medical devices known to attract and absorb greater degree of radiation than otherwise, thus making radiation safety standards lower than for non-bearers of such devices.” She contends that her illness in this workers’ compensation claim is cumulative, which is why she did not immediately have health complaints at the time of the installation of the server in November 2013 but rather three months later in February 2014, indicating “their development over time, representing cumulative effects of radiations and potentially other electronic emissions exposure.”

55. Finally, the Applicant contends that the Bank Group committed various labor violations against her in violation of internal Bank Group rules as well as international standards, including

exposure to health hazards, office isolation/confinement, forced labor, and discrimination on the basis of disability.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

56. The Applicant is appealing to the Tribunal the decision of the ARP denying her claim for workers' compensation on the basis that her claim was not timely filed. The key issue for the Tribunal to address in its analysis is the relevant date for purposes of applying Staff Rule 6.11, and in thus determining whether the Applicant's workers' compensation claim was timely.

57. Paragraph 4.01 of Staff Rule 6.11 provides as follows:

If a Staff Member's injury, illness or death is believed by a claimant to arise out of and in the course of employment, a claim for applicable workers' compensation benefits may be filed with the Claims Administrator by the Staff Member, a surviving spouse or Domestic Partner, a Child, or an appointed guardian. A claim must be filed with the Claims Administrator within the timeline provided in the Procedure, "Workers' Compensation Program – Claims Procedure."

The relevant portion of the Procedure is paragraph 3.02, which states:

Claims must be submitted to the Bank Group's Claims Administrator within 12 months after the illness is diagnosed or the injury or death occurs, or if later, 12 months after the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between the Staff Member's employment and his/her illness, injury or death.

The issue before the Tribunal, therefore, is whether the Applicant filed her claim with the Claims Administrator within twelve months after her illness was diagnosed or her injury occurred, or, if later, within twelve months after the date when the Applicant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between her employment and her illness or injury.

58. As discussed in the preceding paragraphs, the Bank Group and the Applicant dispute the relevant timeline for the filing of the Applicant's workers' compensation claim. The Bank Group

asserts that the ARP's decision is sound and should be upheld by the Tribunal. The ARP found as follows:

According to the medical evidence, the Claimant's first visit with [a physician] related to this alleged illness was on February 26, 2014, which is consistent with the Claimant's statements regarding the onset of her symptoms and medical treatment sought. The medical record from the Claimant's follow-up visit with [the physician] on May 23, 2014 notes the Claimant's belief that her symptoms appeared three months after installation of server equipment near her workspace. This narrative clearly indicates that the Claimant believed that her symptoms were related to a condition/exposure associated with her employment. This May 23, 2014 report appears to be the first medical record documenting the Claimant's alleged symptoms and condition. It was also at this time that [the physician] provided a probable diagnosis and recommended further evaluation and treatment.

Taking the latest of these dates (the latest date is more favorable to the Claimant) of May 23, 2014, the Claimant should have filed her claim for workers' compensation benefits by May 23, 2015, within 12 months after the date she became aware or should have become aware of the relationship between her alleged illness and her employment with the World Bank Group. Because the Claimant did not file her claim until December 31, 2015, her claim was not timely filed in accordance with the Staff Rules and is, therefore, barred.

Accordingly, this panel will not address the remaining issues raised by the Claimant.

The ARP decision considers the Applicant's personal belief of a relationship between her symptoms and the server rack, as stated by the Applicant and confirmed in her doctor's medical report, as sufficient to trigger a timeline beginning on 23 May 2014.

59. In examining the present Application, the Tribunal begins its analysis by disaggregating the Staff Rule 6.11 requirements on timing. That is, paragraph 3.02 of the Procedure first specifies, "Claims must be submitted to the Bank Group's Claims Administrator within 12 months after the illness is diagnosed or the injury or death occurs [...]." Paragraph 3.02 then goes on, "[O]r if later, 12 months after the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between the Staff Member's employment and his/her illness, injury or death." The language "or if later" suggests that it is only if "the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware" of the relationship between her illness and her employment with the Bank Group is *later*

than the date “the illness is diagnosed or the injury or death occurs” that this portion of paragraph 3.02 becomes dispositive.

60. The Tribunal has held with respect to its canons of interpretation that it “first looks to the plain and ordinary meaning of the rule” and, “[i]n appropriate cases, in addition to the text itself, the Tribunal may have regard to the object and purpose of the rule.” *CE (Preliminary Objection)*, Decision No. 479 [2013], para. 38, citing *Mould*, Decision No. 210 [1999], para. 13, and *Cissé*, Decision No. 242 [2001], para. 23. Further, in *J*, Decision No. 349 [2006], para. 39, the Tribunal noted with reference to Staff Rule 6.11 at that time that the requirement that the clock on the filing period will not start until the “claimant has become aware or should have become aware of a possible relationship between the injury, illness or death and the staff member’s employment” is an “important exception” to the requirement that “claims must be filed not more than one year after the injury, illness or death giving rise to the claim.”

61. In the present case, the Applicant contends that the first prong of paragraph 3.02 of the Procedure is inapplicable because she never received a diagnosis regarding her symptoms. In support of her position, the Applicant invokes Staff Rule 6.07, which covers the Bank Group’s Health Program and Services, to suggest that it was the Bank Group’s failure to follow this Staff Rule and, accordingly, to provide her with a medical evacuation that has resulted in a lack of diagnosis of her illness. She therefore looks to the rest of paragraph 3.02 of the Procedure and reasons that she could only have become aware of a relationship between her illness and her employment through the environmental testing of the office and the transmission of those results to her.

62. Contrary to the Applicant’s position, a medical diagnosis need not be conclusive for the purposes of filing a workers’ compensation claim. With respect to workers’ compensation, the Staff Rules seem to contemplate that there may indeed be disputes with respect to medical opinions and diagnoses. Presumably, this is the reason for the provision of an independent medical examination by an independent medical examiner at the Bank Group’s expense under paragraph 4.04 of the Procedure. Further, as the Tribunal has stated in *J* [2006]:

The opinion of personal physicians may be valuable, but in case of doubt or uncertainty those of independent medical examiners may reasonably be assigned more weight in view of the fact that under Staff Rule 6.11, paras. 3.02 and 3.03, it is the Claims Administrator's function, in deciding whether a claim is compensable or continues to be compensable, to select a medical examiner to help make its assessment. (*Id.*, para. 35, referencing *Shenouda (No. 2)*, Decision No. 218 [2000], para. 23, and *Courtney (No.4)*, Decision No. 202 [1998], para. 20.)

If deemed necessary in evaluating the Applicant's claim, the Claims Administrator is in a position to require another examination by an independent medical examiner for the purpose of further clarifying the Applicant's diagnosis. The Tribunal therefore finds that the Applicant received a diagnosis of polyneuropathy on 23 May 2014, as confirmed in the evidentiary record through the Applicant's medical report. Ending the inquiry at this stage of analysis and application of Staff Rule 6.11, the Applicant's claim for workers' compensation would indeed be time-barred given that she filed it on 31 December 2015.

63. Pursuant to the review above of paragraph 3.02 of the Procedure, however, the Tribunal will consider whether the date the Applicant became aware of her illness and its relationship to her employment is in fact *later* than 23 May 2014. One issue the Tribunal considers in this respect is whether the Applicant can be deemed to be aware of the relationship between her alleged illness and her employment for purposes of Staff Rule 6.11 without the Applicant having definitive knowledge of the environmental conditions of her workplace with respect to the dangers of the server rack. The Applicant holds that she could only have become aware of a relationship between her illness and her employment through environmental testing of the office and the transmission of those results to her.

64. Claims for workers' compensation may be denied on the basis that the illness/injury did not "arise out of and in the course of employment." The Applicant's own claim before the Bank Group's Claims Administrator was denied on this basis at first review. It would seem prudent for an applicant to establish a causal link between his or her illness and his or her employment before bringing a claim for workers' compensation benefits. In this respect, the Tribunal has been mindful of the level of certainty required to establish this causal relationship for the purposes of starting the clock on initiating a claim. In *J* [2006], for instance, which dealt with a claim for workers'

compensation due to hyperpigmentation of the skin that the applicant alleged occurred as a result of anti-malarial drugs taken while on assignment for the Bank Group, the Tribunal found:

The [a]pplicant has not established with any certainty or precision that her skin condition arose from the IFC assignment in 1988, or even that doxycycline was the cause of that condition. The evidence submitted to this effect is circumstantial and does not point to facts that would establish a clear connection with her employment, as would have been the case, for example, if the Bank Group had prescribed a prophylaxis at the time of her travel. (*Id.*, para. 30.)

65. In considering the question of causal relationship in this case, the Tribunal also notes that the administration of the Bank Group's workers' compensation program entails precisely the kinds of investigations that would serve to reveal or reject such a linkage. Staff Rule 6.11, paragraph 3.01, provides in relevant part, "The Claims Administrator will determine whether an injury, illness or death arises out of and in the course of employment and otherwise administer the workers' compensation program." Further, as the Tribunal has previously noted, "the Claims Administrator's role is not merely to undertake a passive review of the evidence adduced by a claimant. The Claims Administrator bears the responsibility of making the necessary 'investigations,' through such affirmative means as engagement of independent medical examiners, to assist it in arriving at a determination of the compensability of a claim." *BI (No. 2)*, Decision No. 445 [2010], para. 30. Thus, while the Applicant bears the burden of establishing her claim by a preponderance of the evidence (*id.*, para. 25, referencing *Hasselback*, Decision No. 364 [2007], para. 50), the Bank Group's workers' compensation program, as detailed in the Staff Rules, includes an investigatory component which should operate to provide a fuller picture of the allegations in the course of determining compensability. For instance, pursuant to paragraph 4.02(c) of the Procedure, in the determination of compensability, the Claims Adjuster will "obtain information, clarification and testimony directly from other relevant sources regarding how the illness, injury, or death occurred and how it related to the Staff Member's work."

66. It stands to reason, therefore, that an applicant is not expected to have or to show absolute certainty with respect to the causal relationship between his or her illness and employment for purposes of filing a claim. In practical terms, the kind of time and resources this might require would often be beyond that to be reasonably expected of a staff member and would also potentially

delay and undermine the efficiency of the workers' compensation program. In the instant case, the Applicant has established the fact that the server rack was installed in proximity to her workspace, and she alleges illness caused from its emissions. There is a clear connection to her employment with the Bank Group in terms of the nature of this allegation, and her medical report of 23 May 2014 further corroborates the connection she alleges. According to the medical report, her probable diagnosis was "Polineuropahty [*sic*] of a cause to be clarified" and the report's "Recommendations for the Office" were to "[r]elocate the equipment or temporarily transfer the workstation." Crucially, the medical report stated, "It is worth noting that, according to her, these symptoms occurred 3 months after the installation of an electronic equipment next to her workstation." What remained unclear with respect to a causal relationship at that stage was whether the server was in fact harmful and in fact caused any illness. The Environmental Assessment conducted a year later, which the Applicant relies upon to start the Staff Rule 6.11 clock, confirmed electromagnetic radiation emissions above a safe level. That summary report which the Applicant received also stated, however, that "[a]t this stage, there is no element to determine a real impact on staff's health." It is not clear, therefore, that the Environmental Assessment would have made the Applicant any more aware of a connection between her illness and employment.

67. Further, Staff Rule 6.11, paragraph 4.01, states in pertinent part, "If a Staff Member's injury, illness or death is believed by a claimant to arise out of and in the course of employment, a claim for applicable workers' compensation benefits may be filed with the Claims Administrator by the Staff Member." The record suggests that the Applicant believed her illness arose out of and in the course of her employment. This is confirmed by her own statements on the record, the medical reports from her doctor, and her decision to take the unilateral step of working from home in March 2014. In this regard, the Applicant stated in a 17 August 2016 email to a Senior HR Specialist at the Bank Group that her "doctor's recommendation called for removal of the server from the common office space or my relocation to a different working space due to health problems develo[p]ed since the installation of the server. Regretfully, the call for my relocation was simply ignored by management. So, for my health integrity and efforts to save my life, I relocated to my house and worked from there."

68. Further, in an email dated 30 December 2015 and sent to an occupational health specialist at the Bank Group, the Applicant noted that she “had several months of isolated, continuous and intense over-exposure (November 2013 to March/April 2014), with my desk directly positioned less than a meter away from the exhaust of the rack, housing a heavy electronic apparatus.” In that email, the Applicant went on to state, “I started working from home, as no other office space was made available. Health problems were relieved with the transfer, although continuous and long hours [exposure] to laptop, wifi, printer and cell phone (in long audio-conferences) radiations, as well as other associated electronic emissions, continued to pose health problems.” This email noting the relief in her symptoms once working from home suggests that the Applicant considered her symptoms to arise from the alleged radiation emissions from the server at the Bank Group office.

69. The Tribunal views all of the above factors as convincingly demonstrating awareness on the part of the Applicant of a relationship between her illness and her employment, for the purposes of filing a workers’ compensation claim. Such claim was triggered by her May 2014 doctor’s visit, with her having transitioned to working from home prior to this.

70. The Tribunal also takes note of some of its previous workers’ compensation jurisprudence in analyzing this case. In *DT*, Decision No. 541 [2016], the applicant sought workers’ compensation on the basis of work-related stress which she alleged worsened progressively over the years, led to hospitalizations, and affected her health in the form of Irritable Bowel Syndrome and a pinched S1 nerve. She filed her claim in November 2013, and both the Claims Administrator and the ARP denied the claim as being time-barred and as not arising as a direct result of her employment. On first review, the Claims Administrator found, “The staff member was clearly aware of her work related illness since at least 2007 and its relation to her employment.” *Id.*, para. 17. On reconsideration, the Claims Administrator found that there was documentation that the claimant had been receiving medical treatment as far back as 2008 and noted that “the claim was not reported within a timely manner as treatment for these conditions [was] outside of the 12 month filing period.” *Id.*, para. 20. The ARP affirmed, stating that the claimant “had received diagnoses with regard to all of her conditions and, given her own statement and the medical evidence [...], was aware or at the very least in the exercise of ordinary diligence ought to have been aware of a

possible connection between these conditions and her employment, more than one year prior to of [sic] filing the claim. Such diagnoses and knowledge existed by at least 2007.” *Id.*, para. 24. The claimant asserted, however, that the particular “triggering event in terms of the need to file a claim” was a trip she made to Country L in October 2012 during the course of which she alleged her condition worsened and she experienced additional pains. *Id.*, para. 36.

71. In *DT* [2016], the Tribunal held that the applicant’s claim for workers’ compensation should be dismissed because her illness or injury was not sustained in the course of her employment by the International Finance Corporation but rather while she was employed by the government of Country L. Before reaching this conclusion, however, the Tribunal stated that “the determination of the nature of the illness from which the [a]pplicant is suffering as well as the moment in which it started is closely linked to the question of the starting date for the timely filing of a claim.” *Id.*, para. 37. This is relevant to the present case. Here, the Applicant visited a medical doctor and received a probable, not possible, diagnosis, regarding the nature of her illness. Further, in the instant case, the moment in which the Applicant’s illness started is clear: from all of her own accounts and the medical evidence available, the illness began in February 2014.

72. Additionally, the Tribunal takes note of its previous judgment in *Hayati*, Decision No. 228 [2000]. The ARP in *Hayati* [2000] also denied the claim for workers’ compensation on the basis of untimely submission, and thus the issue on appeal to the Tribunal was whether the claimant had filed her claim within the Staff Rule 6.11 one-year time frame. In *Hayati* [2000], the applicant’s job responsibilities with the Bank Group over a thirteen-year period involved a large amount of typing, and she sought workers’ compensation on the basis of “carpal tunnel syndrome and severe chronic right and a moderate chronic left hand median nerve entrapment at the wrists.” *Id.*, paras. 5–6. The Tribunal found that the applicant’s claim was not time-barred because “the relevant date for imputing to the [a]pplicant awareness of the causal relationship between her injury and her employment is the date when it became clear that a lasting injury necessitating surgery had been sustained and that it was work related.” *Id.*, para. 20. The Tribunal therefore reversed the conclusion of the ARP that the applicant’s claim was untimely and remanded the case to be considered on the merits. In particular, the Tribunal stated:

It should be noted that carpal tunnel syndrome is a cumulative traumatic injury. It does not occur at a specific point in time but is progressive. On a purposive interpretation, Staff Rule 6.11, paragraph 3.01, must have envisaged some permanence in the injury in respect of which a causal relationship between the injury and the employment may be determined. It could not have been the intention of the Workers' Compensation Program to cover *de minimis* injuries particularly where the injury is cumulative in nature and intermingled with other injuries like tennis elbow. (*Id.*, para. 18.)

73. Further, the Tribunal noted, "The purpose of the one-year limitation is to ensure that complaints of a work-related injury should be brought expeditiously so that the Bank can, as stated in its pleadings, 'address, manage and possibly mitigate liability' and so that an injury arising out of the workplace will not 'continue unattended.'" *Id.* But the Tribunal also cautioned that "[t]his objective should be balanced with the need to discourage premature complaints. This is in the interest of both the Bank and its employees. Otherwise, employees will have to file a claim for every routine and minor work-related ailment to preserve their rights." *Id.* In the instant case, the Applicant's health claims could not be considered to be "routine" or "minor." This is again evidenced by the seriousness with which the Applicant took her own illness, in terms of deciding to work from home and to not even return to the office for meetings, and by the fact that the Applicant claims she has been harmed by radiation emissions. The Tribunal finds that a 23 May 2014 clock start would not have entailed a "premature" complaint on the part of the Applicant.

74. Additionally, in *Hayati* [2000], para. 19, the Tribunal concluded:

[T]here must be some certainty required in the determination of whether any injury is sustained before a claim should be made, particularly when the injury is of a cumulative nature and it cannot be ascertained exactly when it occurred. Furthermore, whether the ailment is subject to cure by modest treatment measures or is permanent in nature is material. There is a need for certainty in order to settle the legal position between the Bank and its employees and to ensure stability in such situations. All these factors are relevant in determining the appropriate date for lodging a complaint.

As the Tribunal noted, "there must be some certainty required in the determination of whether any injury is sustained before a claim should be made," and the requirement of certainty is important, "particularly when the injury is of a cumulative nature and it cannot be ascertained exactly when

it occurred.” The illness alleged in the instant case can be distinguished from that in *Hayati* [2000], contrary to the Applicant’s contention that her illness is of a cumulative nature.

75. First, the Applicant’s alleged injury/illness became apparent at a specific time, February 2014, when she sought medical treatment, and it can therefore be ascertained when it occurred. Second, in *Hayati* [2000], the applicant suffered from carpal tunnel syndrome, a cumulative injury progressively worsening and attributed to many years of intense typing activity having a degenerative effect on the body. In the present case, the Applicant was exposed to the server over a relatively short five-month period before she began to work from home, thereby eliminating rather than accumulating exposure to the alleged source of her illness and potentially mitigating any further harm. This context is relevant for purposes of the timing for filing the Applicant’s claim. Further, the Claims Administrator is authorized to administer workers’ compensation for the Bank Group, including ongoing benefits. In this way, had the Applicant qualified, her injury would have been monitored and any latent or future health complications addressed and compensated as necessary. Finally, as stated in *Hayati* [2000], para. 19, “whether the ailment is subject to cure by modest treatment measures or is permanent in nature is material” for purposes of timing. The Applicant’s claim that her illness could not be properly evaluated and treated in Guinea-Bissau suggests that the ailment was not subject to cure by modest treatment measures, and this is yet another factor militating in favor of a filing timeline triggered by her 23 May 2014 doctor’s report.

76. Based on the above discussion, the Tribunal finds it clear that the Applicant received a probable diagnosis and believed her illness to be related to her employment with the Bank Group by 23 May 2014. Pursuant to Staff Rule 6.11, she should have filed her claim for workers’ compensation within twelve months of this date. The Tribunal therefore concludes that the ARP’s decision that the Applicant’s workers’ compensation claim was time-barred can be reasonably sustained by the evidence and is in accordance with the relevant rules.

DECISION

The Application is dismissed.

/S/ Andrew Burgess

Andrew Burgess

President

/S/Zakir Hafez

Zakir Hafez

Executive Secretary

At Washington, D.C.,* 16 November 2020

* In view of the public health emergency occasioned by the COVID-19 pandemic and in the interest of the prompt and efficient administration of justice, the Tribunal conducted its deliberations in these proceedings remotely, by way of audio-video conferencing coordinated by the Office of the Executive Secretary.