

**Summary of González Flavell (No. 8) v. IBRD (Preliminary Objection), Decision No. 605  
[2019]**

The Applicant challenged (i) the dismissal by Peer Review Services (PRS) of Request for Review No. 409; and (ii) the Bank’s alleged failure to “afford the Applicant her right to an Overall Performance Evaluation [OPE] after she returned from Short Term Disability [STD] leave in 2017.” The Bank raised a preliminary objection contesting the admissibility of the Application on the basis of the principle of *res judicata*. The Bank claimed in this regard that the Applicant’s challenges to her OPEs for “any years after 2013/2014” were barred from the Tribunal’s review because they had been examined by the Tribunal in Decision No. 553. In the alternative, the Bank objected to the admissibility of the Application on the grounds that the Applicant had failed to exhaust internal remedies prior to filing the Application with the Tribunal.

The Tribunal found that the Applicant was attempting to bring to the Tribunal, through the Application, claims regarding her OPEs for Fiscal Years 2014 and 2015 for a second round of litigation. It therefore excluded these claims from the Tribunal’s review on the basis of the principle of *res judicata*. The Tribunal found, however, that the Applicant’s claim regarding her OPE after she returned from STD in Fiscal Year 2017 constituted a new claim.

The Tribunal proceeded to examine the Bank’s additional objection to the admissibility of the Application. The Bank claimed that the Applicant should have sought Administrative Review of her OPE related claims prior to coming to the Tribunal, and denied that, by raising these claims before PRS, the Applicant had exhausted the internal remedies required under Article II(2)(i) of the Tribunal’s Statute. The Tribunal noted that pursuant to the Staff Rules, a staff member seeking review of performance management decisions is required to submit the matter to Administrative Review and Performance Management Review prior to seeking review with the Tribunal. Having observed that the Applicant was challenging a decision associated with her OPE, the Tribunal held that Administrative Review was the appropriate forum to review the Applicant’s claims and not PRS.

As the Applicant had failed to raise her claims before Administrative Review in a timely manner, the Tribunal declined to consider this claim on the basis that the Applicant did not exhaust the internal remedies required under Staff Rules 9.06 and 9.07.

**Decision:** The Application was dismissed.