



JOINT APPEALS BOARD

CASE NO. ISBA/JAB/APPEAL/ BOURREL-MCKINNON/GRIEVANCE 7/2025

Marie Bourrel-McKinnon
(the “Appellant”)

v.

Secretary General of the International Seabed Authority
(the “Respondent”)

Order No. 20 (2025)

Order on Facilitation of Payment of Undisputed Separation Entitlements

Procedural background

1. This case before the International Seabed Authority (ISA/Authority) Joint Appeals Board (JAB/Board), specifically Grievance 7 (ISBA/JAB/APPEAL/BOURREL-MCKINNON/GRIEVANCE 7/2025), concerns Marie Bourrel-McKinnon's (the “Appellant”) contested refusal/delay by the Secretary-General of the ISA (the “Respondent”) to pay her final separation entitlements.
2. The key issue revolves around whether the non-payment of entitlements is due to the Respondent's unlawful withholding or the Appellant's failure to comply with mandatory staff separation and clearance procedures.
3. The chronology outlines the Appellant's separation and the subsequent procedural steps and arguments presented to the JAB. The relevant facts are, *inter alia*, the following: after the request for administrative review in January 2025, which constituted the basis for other Grievances, the ISA Human Resources Officer sent the Appellant a separation *memorandum* outlining the applicable procedures for staff separation and requirements for final entitlements.
4. The Respondent maintains this *memorandum* outlined the need for the Appellant to choose between "mutually agreed termination" or "termination indemnity". It also stated, "No final payment will be made until the clearance form is duly completed by all ISA offices".

5. On January 24, 2025, the Appellant noted a transfer of USD 2,282.75 without notification, which the Respondent later called a "provisional payment... as a gesture of good faith".
6. On January 27, 2025, the Appellant's Counsel notified the Secretary-General that the refusal to pay statutory entitlements forced this new grievance (Grievance 7).
7. On January 28, 2025, the Appellant requested administrative review of the Respondent's refusal to pay her entitlements.
8. On February 27, 2025, the ISA Administration dismissed the Appellant's request for administrative review, noting no administrative decision had been taken denying her due entitlements.
9. On July 9, 2025, after the filing of the present Grievance 7 and its answer by the Respondent, the JAB Chair requested the Respondent to confirm whether all payments and entitlements due to the Appellant upon her separation had been processed.
10. On July 16, 2025, the Respondent replied, maintaining that entitlements would be processed in due course.
11. On July 24, 2025, the Appellant filed comments, asserting that the Respondent had failed to comply with the JAB's directive and maintaining that several entitlements remained unpaid, miscalculated, or unverified, including annual leave, repatriation travel and grant, relocation shipment, pension accruals, and termination indemnity. She also noted missing education grant and mother tongue allowance claims.
12. On July 31, 2025, the Respondent submitted additional comments, stating that all entitlements would be processed together with other separation-related payments, subject to the Appellant's compliance with the separation memorandum. The Respondent maintained that the Appellant had not completed clearance procedures (specifically return of office property) as a prerequisite to the release of final entitlements.
13. On August 15, 2025, the Appellant filed her final reply, confirming acceptance of most entitlements as notified.
14. On September 4, 2025, the Chair of the JAB issued Order No. 16 (2025), on Compliance with Staff Separation and Clearance Procedures. It was noted that the JAB could not determine responsibility for the delay without a clear record of the steps taken by the Appellant to comply with clearance and the Administration's corresponding response. The Chair then ordered the Appellant to submit, no later than September 25, 2025, a detailed, chronological account of her actions regarding the clearance process, including copies of forms, correspondence, and evidence of attempts to return office property or otherwise

comply with separation requirements. Further consideration of the appeal was deferred pending the receipt of submissions.

15. On September 24, 2025, the Appellant submitted her response to Order No. 16, raising a preliminary objection regarding the impartiality of the JAB, noting an unresolved request for the disqualification of the JAB Chair filed on April 3, 2025. The Appellant also argued that Order No. 16 was an incomplete and misleading record and contended that the Order was a "decision in disguise" which materially affected her rights. The Appellant further argued that the Order unlawfully conditioned the adjudication of her appeal on evidence of compliance with clearance procedures, thus legitimizing the Administration's use of withholding entitlements as leverage. She cited UNAT/UNDT jurisprudence holding that indefinite withholding of entitlements linked to clearance is unlawful.

16. The Appellant also raised a counter-claim on the clearance procedure, arguing that the delay/omission was attributable to the Administration's failure to provide the necessary forms, guidance, and assistance.

17. On October 7, 2025, the Respondent filed her Comments on the Appellant's Response. Her main argument was that the Administration maintained that any delay in disbursement arose solely from the Appellant's continued failure to meet her clear contractual and administrative obligations. Regarding the specific failures alleged, the Authority cited the Appellant's: 1) prolonged silence and failure to elect the termination option ("mutually agreed termination" or "termination indemnity"); 2) refusal to complete the mandatory clearance procedures (essential for the return of organizational property); 3) failure to complete required UNJSPF pension documentation (PENS E 7 and PENS A_2); 4) failure to elect preferred options for Travel on Separation and Relocation Shipment; 5) failure to submit claims and supporting documents for education grant and mother tongue allowance.

18. The Administration requested the JAB to find that the Appellant's failure is the sole cause of delay, that the Administration's position is lawful adherence to contractual preconditions. The Organization stated it "stands ready to process all pending entitlements immediately upon the Appellant's completion of the required administrative steps".

Considerations

19. As a preliminary issue, the Board notes that the disqualification letter dated 3 April 2025 requested the recusal of four Board members, including the Chair. Given that the Appellant's appeals effectively sought the recusal of the entire current Board composition (the Chair and four other identified members), the Board previously determined in its five judgments already issued (Grievances 1, 3, 4, 5, and 6) that this matter would be more

appropriately addressed in the final judgment for each appeal. Likewise, in the current Grievance 7, the assessment of the disqualification request will thus be considered concurrently with the general recusal of the current Board members and will be handled accordingly in the final judgment.

20. As previously noted, the JAB has received and considered the Appellant's submissions concerning Grievance 7, relating to the non-payment of separation entitlements, as well as the Respondent's comments on the matter.

21. The Chair of the JAB issued Order No. 16 (2025) on 4 September 2025, requesting the Appellant to provide a detailed, chronological account of her actions in relation to the clearance process.

22. The parties' most recent submissions following that Order confirm a continuing impasse regarding the fulfillment of administrative separation requirements.

23. The Chair notes the Respondent's position that it is "unable to release" final payments until the Appellant fulfills "contractual preconditions for disbursement" as specified in the separation memorandum, citing the Appellant's alleged failures to complete clearance procedures, elect termination options, and submit required pension and claim forms. The Respondent further states that the Organization "stands ready to process all pending entitlements immediately upon the Appellant's completion of the required administrative steps".

24. The Chair also notes the Appellant's counter-contention that any delay is attributable to the Administration's alleged failure to provide the necessary forms, guidance, and assistance to facilitate the separation process. The Appellant also highlights that the process documents were issued by an individual against whom she had filed a misconduct complaint, alleging a conflict of interest.

25. Crucially, it appears from the record that the Appellant is no longer residing in Jamaica and has returned to her home country (France). This geographical separation must be taken into account when assessing the feasibility and practicality of clearance requirements, particularly the return of Authority property.

26. In light of the above, the Chair of the JAB finds that there is no dispute between the parties that:

- a. The Appellant is contractually entitled to the separation benefits.
- b. Not all of the final separation entitlements due to the Appellant have been paid.

27. Before proceeding to a final judgment on Grievance 7, including the central claim of unlawful withholding and also the claim relating to an award of damages or interest, in the

interest of judicial fairness and economy, the Chair, after consultation with the Members of the Board, deems it appropriate to provide the parties with a final opportunity to resolve the factual dispute regarding the completion of administrative requirements for the payment of the currently undisputed entitlements.

28. In light of the Respondent's assertion of the Appellant's non-compliance and the Appellant's specific claim of insufficient assistance from the Administration, and recognizing the added complexity introduced by the Appellant's relocation to France, the Board considers that the most effective way to break the current impasse and ensure the Appellant's statutory rights are met is for the Administration to proactively facilitate the completion of the required steps, taking the Appellant's current location into account.

ORDER

IT IS HEREBY ORDERED THAT:

29. The Respondent shall, no later than November 4, 2025, provide the Appellant, through her Counsel, with a single, comprehensive package containing:

- I. All necessary forms and specific instructions required for the Appellant to select her termination option, and to process her repatriation travel, relocation shipment, and UNJSPF pension benefits.
- II. A final clearance checklist detailing every outstanding item, including any office property to be returned, and clearly specifying the procedure and contact details for the return/resolution of each item. This checklist must contain detailed, step-by-step instructions for the Appellant's completion of requirements from her current location in France, including:
 - a. For the return of Authority property (e.g., laptop, hard drives, ID card): specific instructions on the designated international delivery company to be used, the account number for the Authority (with shipping costs borne by the Authority), the full shipping address, and, if applicable, detailed requirements for formatting or wiping any data from official electronic devices (e.g., hard drives, laptop).
 - b. Alternative Resolution for Property: Should the return of an item be proven unduly difficult or costly due to the distance, the Respondent shall provide an option for the Appellant to compensate the Authority. This option must include a specific, itemized proposal for a discount or write-off amount (stating the precise monetary value) to be applied against her separation entitlements, allowing the Appellant to select compensation in lieu of physical return.

- c. For other clearance requirements: clear guidance on how to complete the relevant sections remotely (e.g., via digital submission, attested by counsel, etc.).
- III. A full summary of all remaining entitlements due, reflecting the Administration's final calculations (including any amounts related to annual leave, termination indemnity, and claim-based benefits such as education grant, which must be accompanied by the required claim forms and a list of necessary supporting documentation).
- IV. Confirmation of the name and contact details of a designated Human Resources Officer or Administration official who will serve as the sole point of contact to provide guidance and assistance to the Appellant's counsel in completing these steps.
30. The Appellant shall complete and return all required forms and/or provide evidence of compliance with the outstanding clearance items, to the designated official, no later than November 25, 2025.
31. The Respondent shall, upon receipt of the documentation in paragraph 30, immediately process and disburse all final separation entitlements that are not under active dispute, no later than five working days from the receipt of the Appellant's complete submission. The Respondent shall thereafter inform the Board, in writing, of the actions taken to ensure compliance with this order, including confirmation of the amounts disbursed and the date of payment.
32. The Board is confident that the Parties will recognize that the course of action stipulated in this Order constitutes the most effective and efficient means of ensuring the expeditious and orderly resolution of the outstanding administrative matters pertaining to this grievance. The Board expresses its expectation of full compliance from both Parties and emphasizes that this process presents a pivotal opportunity to finalize the payment of separation entitlements prior to the issuance of the final judgment.
33. Further consideration of Grievance 7, specifically the issues of unlawful withholding and the Appellant's claims for damages and interest, is deferred pending the completion of this Order.

Order dated this 14th day of October 2025



Judge Martha Halfeld Furtado de Mendonça Schmidt
Chair of the Joint Appeals Board
International Seabed Authority