



HEAD OFFICE
Johannesburg
1st Floor, Norfolk House
Cnr 5th Street & Norwich Close
Sandton, 2196
PO Box 651826, Benmore, 2010
Tel (011) 884-8454 □ Fax (011) 884-1144
E-Mail: enquiries-jhb@pfa.org.za

Cape Town
2nd Floor, Oakdale House, The Oval
Oakdale Road, Newlands, 7700
P O Box 23005, Claremont, 7735
Tel (021) 674-0209 □ Fax (021) 674-0185
E-mail: enquiries@pfa.org.za
Website: www.pfa.org.za

Please quote our reference: PFA/EC/3441/2005/NVC

Re: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 of 1956 (“the Act”): P Bhesengile v Bosasa Provident Fund (now the Dyambu Provident Fund) (“the fund”)

Introduction

[1] You represent Mr Bhesengile whose complaint concerns the calculation of his withdrawal benefit. The complaint was received from you on 20 May 2005 but on 25 May 2005 this office requested further information from you by 22 July 2005. The reformulated complaint was received by this office on 5 July 2005 and a letter acknowledging receipt thereof sent to you on 7 July 2005. On the same date a letter was dispatched to the respondent giving it until 28 July 2005 to file a response to the complaint. The response was received electronically on 28 July 2005. On 9 May 2006 the response was sent to you for a reply by 31 May 2006. No reply has been received from you. After considering the written submissions before me, I consider it unnecessary to hold a hearing in this matter. As the facts are well-known to the parties, I shall not burden this determination by repeating them here. My determination and reasons therefor appear below.

Complaint

[2] Your client is unhappy about receiving only R4 000 from the fund as a withdrawal benefit. You state that he worked for a “long” time at Hartebeestfontein Gold Mine (which he left on 4 December 1999) and

V Ngalwana (Adjudicator), N Jeram (Deputy Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), L Shrosbree (Snr Assistant Adjudicator), Z Camroodien (Snr Assistant Adjudicator), F Mtayi (Snr Assistant Adjudicator), K MacKenzie (Snr Assistant Adjudicator), R Maharaj (Snr Assistant Adjudicator), N van Coller (Assistant Adjudicator), L Mbalo (Assistant Adjudicator), J Mabuza (Assistant Adjudicator), V Abrahams (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), T Thabethe (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator)

Office Manager: L Manuel

Bosasa Catering (which he left on 31 October 2003).

Response by Sanlam Life Insurance Limited ("Sanlam"), the fund's administrators

[3] Sanlam states that Mr Bhesengile's benefit was calculated as follows:

Member's contribution:	R4 150.23
Employer's contribution:	R1 506.60
Interest calculated:	<u>R 312.43</u>
Total:	R5 969.26"

[4] Tax of R327.42 was deducted and the net amount (R5 641.84) was paid to him, according to Sanlam (no date or method of payment is given).

Determination and reasons therefor

[5] In terms of rule 8.1 a member who withdraws from the fund prior to reaching his retirement date is entitled to his optional contributions which the member made to the fund in respect of a past period, plus interest, plus compulsory contributions which he made to the fund, plus interest, plus a percentage of the employer's contributions depending on years of service, plus interest. The rule stipulates that the member's cash benefit may not exceed his member's share.

[6] From the evidence, your client was paid R5 969.26, less tax, by the fund and not R4 000 as alleged by him. He has not substantiated his assertion that he was paid less than what was due to him by the fund. Further, you have declined to reply to the fund's response to the complaint and I assume that your client is unable to refute the fund's response.

[7] Since your client also refers to his service at Hartebeestfontein Gold Mine and the documents that you submitted to this office indicate that he was a member of the Mineworkers Provident Fund, as well, my assistant enquired from its administrators, Lekana Employee Benefits, if any benefit is still due to him by the Mineworkers Provident Fund. Lekana responded on 14 May 2006 that Mr Bhesengile was a member of this fund from July 1993 to December 1999 and the benefit due to him, R21 844.92, was paid to him on 6 January 2000. Lekana states that no further benefits are due to your client by the Mineworkers Provident Fund.

[8] In the result, your complaint cannot succeed. The file is hereby closed.

Dated at Cape Town on this the day of 2006.

Yours faithfully

Vuyani Ngalwana
Pension Funds Adjudicator