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Please quote our reference: PFA/KZN/6667/2005/NS

Re: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 of 1956 (“the Act”): AM AYRES v CORPORATE SELECTION RETIREMENT FUND (“the fund”) / LIBERTY LIFE GROUP LIMITED (“Liberty”) and PARKVIEW COURT SHARE BLOCK LTD (“the employer”)

Introduction

- [1] Your complaint concerns the alleged delay by the fund in transferring your benefit into a Money Market Account. The complaint was received on 5 December 2005 and a letter acknowledging receipt thereof was sent to you on 8 December 2005. On the same date letters were dispatched to the respondents requesting them to submit responses to your complaint by 29 December 2005. The response from the Liberty was received on 3 February 2005. A copy of the response was sent to you on the same date. A reply was received from you on 27 February 2006.
- [2] After considering the written submissions before me, I consider it unnecessary to hold a hearing in this matter. My determination and reasons therefor appear below.

Complaint

- [3] You commenced service with the employer in 1992. You became a member of the fund (which is underwritten and administered by Liberty) by virtue of your employment. You retired on 30 April 2005.

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

- [4] On 14 April 2005 Liberty provided you with a projected value of your retirement benefit in an amount of R319 956.96. On 22 April 2005 you completed and signed a withdrawal notification form and instructed Liberty through a financial intermediary, Mr Rob Havemann of Matthew & Sons, to transfer your benefit into the Money Market Account. You allege that Liberty failed to transfer your benefit timeously, and the transfer only took place on 3 May 2005. You state that when your benefit was eventually transferred its value was R314 346.96 which is lower than the projection that you initially obtained from Liberty. According to your calculation your benefit would have increased to R322 629.96, together with interest, if it were not for the delay in transferring your benefit. In addition to the above, your employer also made a final contribution of R2 673.00 to the fund at the end of April, which you maintain was not credited to your fund share.
- [5] You are aggrieved by the delay in transferring your benefit in accordance with your instructions. You state that you have suffered financial prejudice as a result of the fund's failure to transfer your benefit timeously. According to your calculation the loss that you have suffered is approximately R8 283.00 together with interest. You accordingly request that I make an order directing the fund to pay you damages in the amount referred to above.

The response

- [6] A response has been filed by Liberty, presumably in its capacity as the fund administrator. It confirms that you completed a withdrawal notification form and signed it on 22 April 2005. It contends that the form was sent by your financial adviser on 3 May 2005 and was received on the same day. Liberty has annexed a copy of this form to its response as annexure "B" in support of its contention. It states that when the form was received by it your benefit was immediately switched into the Standard Bank Money Market Fund.
- [7] Liberty confirms that the last contribution from your employer was received and invested on 3 May 2005. It points out that a member benefit statement, such as the one that you were provided with on 14 April 2005, is a statement of benefits at a particular point in time. The financial markets move every day and the ruling unit prices as at effective date of the member's instruction to move the money into another portfolio will be the unit prices which are applied to calculate the actual retirement benefit. The insurer sets out the unit prices which were applied to calculate your actual retirement benefit as follows:

Value of units as at 14.04.2005 – date of member benefit statement:			
Portfolio	Value of units	Unit price	Units
Corporate Gilt	2633.059	4.311981	11353.70

Yours faithfully

Vuyani Ngalwana
Pension Funds Adjudicator