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Please quote our reference: PFA/GA/11698/2006/CMS

RE: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT, 24 OF 1956 (“the Act”): JT TANYATSWALA AND OTHERS (“the complainant”) v STURROCK AND ROBSON RETIREMENT FUND (“the first respondent”)/ALEXANDER FORBES (“the second respondent”)

1. Introduction

1.1 This complaint relates to the unpaid withdrawal benefit. A complaint dated 20 November 2006 was received by this office on 30 November 2006. On 13 December 2006 a letter was sent to the complainant acknowledging receipt thereof and on the same day a letter was sent to the second respondent giving it until 12 January 2007 to file its response to the complaint. The first respondent has filed its response to the complaint dated 12 January 2007.

1.2 After considering all the written submissions, it is unnecessary to hold a hearing in this matter. The determination and reasons therefore appear below.

2. Complaint

2.1 The complainant states that he was an employee of Sturrock and Robson Holdings Limited (“the employer”) from 1965 until 1987 when he was retrenched.

M Mohlala (Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), F Mtayi (Snr Assistant Adjudicator), K MacKenzie (Snr Assistant Adjudicator), R Maharaj (Snr Assistant Adjudicator), M Ndaba (Snr Assistant Adjudicator), M Daki (Snr Assistant Adjudicator), E de la Rey (Snr Assistant Adjudicator), N van Coller (Assistant Adjudicator), L Mbalo (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator), N Sihlali (Assistant Adjudicator), S Mothupi (Assistant Adjudicator), P Mphephu (Assistant Adjudicator), C Seabela (Assistant Adjudicator), P Myokwana (Assistant Adjudicator), L Nevondwe (Assistant Adjudicator)

Office Manager: L Manuel, Financial Manager: F Mantsho, Accountant: R Soldaat

- 2.2 The complainant states further that the employees of the employer were members of Sturrock and Robson Holdings, Non European Staff Pension Fund and Multifund.
- 2.4 The complainant states further that when they were retrenched they were advised that they will receive their benefits in terms of the rules when they reach the age of fifty five (55) and sixty five (65) years respectively.
- 2.5 The complainant has attached a letter to the complaint as annexure "A" being correspondence from the employer addressed to Mr NV Motheme, presumably one of the complainants, informing him that retirement benefits will only be paid out when he reach the age of sixty five (65) or the age of fifty five (55) should he decide to take a voluntary early retirement with a corresponding reduction in benefits.
- 2.5 The complainant states further that now that the benefit should be paid out there is confusion as to which pension fund do they belong to.
- 2.6 The complainant seek assistance from this office that their retirement benefit be paid out as they now fall within the age group of fifty (55) and sixty five (65) years.

3 First respondent's response

- 3.1 The first respondent states that the Sturrock and Robson Holdings Non European Fund does not exist anymore.
- 3.2 The first respondent states that the complainant has not attached a letter addressed to him directly were he was informed that he will only be entitled to the benefits upon reaching the age of 55 or 65 respectively.
- 3.3 The first respondent states further that it appears that the deferred pensioners of the Sturrock and Robson Non European Fund were transferred to the Sturrock and Robson Retirement Fund.
- 3.4 The first respondent state further that in 1996 a process was undertaken to make payment of all of the deferred pensions out of Sturrock and Robson Fund Non European Fund to the Sturrock and Robson Retirement Fund.
- 3.5 The first respondent states further that unfortunately it cannot find copies of the relevant section 14 transfer in terms of the Act,

however it has received an amount in respect of the complainant.

- 3.6 The first respondent states further that it appears from out files that the deferred pension due from the Sturrock and Robson Non European Fund which has been transferred to the Sturrock and Robson Pension Fund were valued as at 30 June 1996.
- 3.7 The first respondent states further that Sturrock and Robson Pension Fund was a defined benefit fund and the members of this fund were transferred out on 1 July 1996 into the new Sturrock and Robson Retirement Fund.
- 3.8 The first respondent refers to annexure "B" to its response as proof of payment to the complainant made on 30 June 2005 in the amount of R5 213.30. The first respondent states that it does not have further liability to the complainant.

4 Determination and reasons thereof.

- 4.1 This complainant relates to the unpaid withdrawal benefit. This tribunal will only make a determination in relation to the complainant himself and not the others as they are not identifiable and they are not signatories to this complaint.
 - 4.2 The second respondent basically states that the complainant has been paid his withdrawal benefit and that there is no any outstanding benefits that is due to the complainant .The first respondent's response has been sent to the complainant for a reply by the first respondent, but no reply was ever filed with this office. The complainant's failure to reply is an admission of the averments of the respondent's response.
 - 4.3 The first respondent has stated that the complainant was paid an amount of R5 213.30 on 30 June 2005 as a withdrawal benefit and has attached proof of payment thereof. It is the finding of this tribunal that the complainant has been paid his withdrawal benefit and there are no outstanding benefits that are due to the complainant.
5. This complaint cannot succeed and is therefore dismissed.

SIGNED IN JOHANNESBURG ON THIS DAY OF 2008.

Yours faithfully

MAMODUPI MOHLALA
PENSION FUNDS ADJUDICATOR