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Please quote our reference: PFA/WE/7224/2006/AM

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT, 24 OF 1956 (“the Act”) – N MARASI (“the complainant”) v INTERPARK PROVIDENT FUND (“the first respondent”) and MILLENIUM PROVIDENT FUND (“the second respondent”)

1. Introduction

- 1.1 The complaint concerns the failure by the first respondent to pay the complainant’s withdrawal benefit.
- 1.2 An initial complaint was received on 8 February 2006, but due to insufficient information contained in it, this office sent the complainant a letter acknowledging receipt of her complaint and requested her to reformulate complaint. A reformulated complaint dated 21 February 2006 was received on 24 February 2006. On 17 May 2006 letters were dispatched to both the first and second respondents respectively giving them until 7 June 2006 to file their responses to the complaint. A response was received from the first respondent on 8 June 2007. The administrators of the second respondent responded on 27 July 2006 and a copy of the response was forwarded to the complainant on 7 August 2006. The complainant did not reply.
- 1.3 After considering all the written submissions presented, it is considered unnecessary to hold a hearing in this matter. The determination and the reasons therefor appear below.

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. Complaint

- 2.1 The complainant was a member of both the first and second respondents until his services were terminated on 31 January 2006. The complainant received his withdrawal benefit from the second respondent. However, the first respondent has failed to pay a withdrawal benefit to the complainant since the termination of his service.
- 2.2 The complainant is dissatisfied with the first respondent's failure to pay his withdrawal benefit.

3. Response

- 3.1 The second respondent's administrators state that the first respondent was in the process of being transferred to the second respondent. An application in terms of section 14 of the Act had been made to transfer the assets and liabilities from the first to the second respondent.
- 3.2 The second respondent further states some contributions had been made by the complainant to the second respondent, but that the bulk of the pension benefit is still held by the first respondent.
- 3.3 The second respondent advises that all monies which were held by it have been paid to the complainant. It therefore concludes that no further monies are owing by the second respondent to the complainant.
- 3.4 The first respondent indicated that it is holding funds in respect of the complainant, but that it is not in possession of a signed notice of withdrawal. Correspondence from the complainant's employer, however, indicated that this form has been sent on more than one occasion.

4. Determination and reasons therefor

- 4.1 I am satisfied that the second respondent has discharged its obligations to the complainant. However, it appears that the first respondent has not done so. Since the complainant's benefit accrued prior to transfer of the assets, his fund share is no longer capable of being transferred to another fund, and he is entitled to a withdrawal benefit in terms of the rules of the first respondent. Since the withdrawal forms from the employer have repeatedly gone astray, I will direct the first respondent to pay the benefit to the complainant on the basis of a withdrawal form completed and submitted by the complainant.

6. Relief

5.1 In the result, the order of this Tribunal is as follows:

5.1.1 The complainant is directed to submit a withdrawal form, completed by himself, to the first respondent.

5.1.2 The first respondent is directed to pay the complainant his benefit within 7 days of receipt of the notice of withdrawal, together with interest at the rate of 15,5% from date of withdrawal to date of final payment.

DATED AT CAPE TOWN ON THIS DAY OF 2008.

Yours faithfully

MAMODUPI MOHLALA
PENSION FUNDS ADJUDICATOR