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

Your ref: PFA/WE/3430/2005/TT

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 OF 1956: S A NONKONYANA V REINFORCED PROVIDENT FUND ("the fund") and TOTAL CARE STRATEGY HOLDINGS (PTY) LTD

Introduction

1. This matter concerns the benefit you received from the fund on your resignation. The complaint was received by this office on 23 June 2005. The fund responded on 9 September 2005. On 8 September the fund's response was sent to you for a reply by 22 September 2005. 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.

Facts

2. You commenced employment with Shari Security Services ("the employer") in or about November 2001. You became a member of the fund when the employer commenced its participation therein with effect from 1 October 2003.

3. You resigned from employment and exited the fund on 8 December 2003. You received a withdrawal benefit of R265.55.

Complaint

4. You contend that the withdrawal benefit you received from the fund cannot be correct since, according to you, a monthly amount of R125.00 was deducted from your salary and paid over to the fund for the period of your employment (approximately 25 months).

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

Fund's response

5. Total Care Strategy Holdings (Pty) Ltd, the fund administrator, responded on behalf of the fund. It states that your fund salary was R1 250 per month. In terms of the rules you contributed 5% of your fund salary, a monthly amount of R62.50 and the employer contributed 2%, a monthly amount of R25, plus risk and administration costs.

6. The fund submits that your withdrawal benefit of R265.55 was correctly calculated in accordance with the rules of the fund.

Determination and reasons therefor

7. Section 13 of the Act provides that the rules of a fund are binding on the fund and the members, shareholders and officers thereof, and on any person who claims under the rules or whose claim is derived from a person so claiming.

8. Rule 6.2 provides that a member who resigns or is dismissed shall be entitled to a withdrawal benefit as set out in the Special Rules. The special rules state that the benefit payable by the fund to employees on resignation, dismissal or retrenchment is the Member's Credit at date of withdrawal.

9. Although you were employed by the employer for approximately 2 years, you were a member of the fund for only three months, from 1 October 2003 to 31 December 2003. Therefore the monthly contributions of R62.50 and R25 were only received by the fund for these three months and not for the entire period of your employment.

10. In light of the above I am satisfied that your member's credit of R265.55 which you received was correctly calculated in terms of the rules of the fund.

Relief

11. In the circumstances, your complaint cannot succeed.

SIGNED IN CAPE TOWN ON THIS DAY OF 2006

Yours faithfully

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VUYANI NGALWANA
PENSION FUNDS ADJUDICATOR