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REGISTERED POST

Mr T.A. Mokuma
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Dear Sir,

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT NO. 24 OF 1956 (“the Act”): T A MOKUMA (“complainant”) v SIZANANI PROVIDENT FUND (“first respondent”) AND ABSA CONSULTANTS AND ACTUARIES (“second respondent)

[1] INTRODUCTION

1.1 This complaint concerns the quantum of the withdrawal benefit.

1.2 The complaint was received by this office on 8 June 2007. A letter acknowledging receipt thereof was sent to the complainant on 22 June 2007. On 7 August 2008, the complaint was dispatched to the respondents giving them until 8 September 2008 to file responses to the complaint. A response dated 10 September 2008 was received from the

The Office of the Pension Funds Adjudicator was established in terms of Section 30B of the Pension Funds Act No. 24 of 1956

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respondents. On 30 July 2010, further information was sought from the respondents and same was received on 4 August 2010. Both responses were forwarded to the complainant and no further submissions were received from him.

- 1.3 This complaint was referred to the conciliation service for hearing on 30 June 2009 in order to afford the parties an opportunity to settle the matter. However, the parties could not reach a settlement and the matter was referred for adjudication. The determination and reasons therefore appear below.

[2] FACTUAL BACKGROUND

- 2.1 The complainant was employed by Vyfgang Boerdery, a participating employer in the first respondent, until his services were terminated.
- 2.2 During the complainant's employment, he was by virtue of his employment a member of the first respondent, which was administered by the second respondent. Following the termination of his services, he received his withdrawal benefit.

[3] COMPLAINT

- 3.1 The complainant seeks payment of his full withdrawal benefit for the period that he was a member of the first respondent. He submits that he was employed by the employer from 1 April 1994 until 3 August 2006 and unfairly dismissed, an issue which was then referred to the Labour Court.
- 3.2 He further submits that he only received an amount of R540.00 from the first respondent and is dissatisfied with this amount since he had worked for a period of thirteen years.

[4] RESPONSES

- 4.1 The second respondent submitted a response on behalf of the first respondent, in its capacity as its administrator.
- 4.2 It submits that the complainant's membership with the first respondent commenced on 1 March 2002 until his withdrawal from it on 1 December 2004. As a consequence of his withdrawal from service, an amount of R1 708.85 was processed and paid to the complainant on 25 January 2005, including an amount of R980.00 which was transferred from the previous fund.
- 4.3 It further submits that, in terms of the rules of the first respondent, the fund provides a lump sum equal to the value of the equitable share of the member as at the date of retirement or withdrawal. It concludes that the complainant's equitable share was paid according to the rules of the fund and that the first respondent has discharged its duty towards the complainant.
- 4.4 It further mentions that the complainant commenced his membership with the first respondent again on 1 May 2005 and his services were terminated on 28 February 2007 resulting in the payment of a withdrawal benefit amounting to R540.87 on 5 May 2007.

[5] DETERMINATION AND REASONS THEREFOR

- 5.1 The issue for determination is whether or not the complainant received his full withdrawal benefit.
- 5.2 It is not clear from the submissions before this Tribunal, when exactly the complainant commenced his membership of the first respondent and when his employment terminated. The complainant submitted that he was

in the service of the employer from 1 April 1994 until 3 August 2006. On the other hand, the respondents submitted that his membership of the first respondent commenced on 1 March 2002 until his exit from it on 1 December 2004. The respondents further submitted that the complainant again became a member of the first respondent on 1 May 2005 until his exit from it on 28 February 2007, which was not disputed by the complainant. It would therefore appear that the complainant's period of membership with the first respondent was from 1 May 2005 until 28 February 2007.

5.3 On the question of whether or not the complainant received his full withdrawal benefit, the respondents submitted an account of the different periods during which the complainant had been a member of the first respondent and exited it as well as the amounts of withdrawal benefits that were paid to him, which were not disputed by the complainant. The respondents further attached documentary evidence detailing the contribution history which informed the amount paid to the complainant in terms of the first respondent's rules.

5.4 From the available facts, this Tribunal is satisfied that a correct withdrawal benefit was paid to the complainant and no further payment is due to him.

[6] ORDER

1. In the result, the complaint cannot succeed and it is hereby dismissed.

DATED AT JOHANNESBURG ON THIS 25th DAY OF MARCH 2011

DR EM DE LA REY

ACTING PENSION FUNDS ADJUDICATOR

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Parties unrepresented