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Please quote our reference: PFA/GA/34385/2009/CMS/TCM

Mr. T. Lufundo  
Zone 17  
1983  
**SEBOKEN**

**REGISTERED POST**

Dear Sir

**Re: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT, 24 of 1956 (“the Act”): T LUFUNDO (“the complainant”) v CONTRACT CLEANING NATIONAL PROVIDENT FUND (“the respondent”)**

**1. Introduction**

- 1.1 The complaint concerns the non-payment of the complainant’s withdrawal benefit pursuant to the termination of his employment.
- 1.2 The complaint dated 25 May was received by this office on the same date. On 26 June 2009 a letter acknowledging receipt hereof was sent to the complainant. On 25 June 2009 a letter was sent to the respondent giving it until 27 July 2009 to file a response to the complaint. On 7 September 2009 a second letter was sent to the respondent requesting it to file a response to the complaint by no later than 15 September 2009. No response was received from the respondent.
- 1.3 After reviewing the complainant’s written submissions, it is considered unnecessary to hold a hearing in this matter. The determination and the reasons therefor are set out below.

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Dr EM de la Rey (Adjudicator), R Maharaj (Snr Assistant Adjudicator), M Ndaba (Snr Assistant Adjudicator), M Daki (Snr Assistant Adjudicator), S Mothupi (Snr Assistant Adjudicator), T Dooka (Snr Assistant Adjudicator), M Ramabulana (Snr Assistant Adjudicator), C Seabela (Snr Assistant Adjudicator), P Mphephu (Snr Assistant Adjudicator), L Mbalo (Assistant Adjudicator), P Myokwana (Assistant Adjudicator), L Nevondwe (Assistant Adjudicator), S Mokgara (Assistant Adjudicator), L Molete (Assistant Adjudicator), A Mngqinya (Assistant Adjudicator), T Nawane (Assistant Adjudicator), B Mahlalela (Assistant Adjudicator), G Mothibe (Assistant Adjudicator), L Mogashoa (Assistant Adjudicator), T Mbhansa (Assistant Adjudicator), M Ramasehla (Assistant Adjudicator), T Tlooko (Assistant Adjudicator), R Kikine (Assistant Adjudicator)

Financial Manager: F Mantsho, Accountant: R Soldaat, HR Manager: P Mhlambi

## **2. Complaint**

- 2.1 The complainant is aggrieved by the non-payment of his benefit. The complainant commenced service with Mr Clean (“the employer”) in April 2004. The complainant was as a consequence of his employment a member of the respondent. In May 2008 his employment was terminated. Upon the termination of service and exit from the respondent, a withdrawal benefit became payable to the complainant in terms of the rules of the respondent. The complainant’s benefit remains unpaid.
- 2.2 The complainant is accordingly requesting this Tribunal to direct the respondents to pay her withdrawal benefit.

## **3. Response**

- 3.1 As stated above, the respondent has failed to submit any response to the complaint despite having been invited to do so.

## **4. Determination and reasons therefor**

### **4.1 JURISDICTION**

- 4.1.1 The respondent has been granted the opportunity to comment on the allegations, as is required by section 30F of the Act. No response was received. I therefore have to deal with the merits of the complaint without their submissions.

### **4.2 COMPLAINANT’S ENTITLEMENT TO THE BENEFIT**

- 4.2.1 The next issue for consideration is whether or not the complainant has proved to this Tribunal that she is entitled to a benefit. In addressing this issue, I shall consider the Fund rules and the submissions made by the complainant.

#### **Fund Rules**

- 4.2.2 The relevant rule that regulates payment of withdrawal benefits of the respondent is Rule 7.3, which reads as follows:

#### **7.3 Payment of Benefit**

- 7.3.1 The benefit in terms of this Rule shall be paid to the member as a lump sum after a period of three months from the date on which the member left Service.



