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Please quote our ref: **PFA/GA/30212/2008/LPM**

PER REGISTERED POST

Mrs. E.M. Letho
115 Mosiliki Section
NATALSPRUIT
1452

Dear Mrs. Letho,

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT NO. 24 OF 1956 (“the Act”): E M LETHO (“complainant”) v METAL INDUSTRIES PROVIDENT FUND (“first respondent”) AND METAL INDUSTRIES BENEFITS FUNDS ADMINISTRATORS (PTY) LTD. (“second respondent”)

[1] INTRODUCTION

- 1.1 The complaint concerns the non-payment of death benefits.
- 1.2 The complaint was received by this office on 5 December 2008. A letter acknowledging receipt thereof was forwarded to the complainant on 19 January 2009. On the same date a letter was dispatched to the respondents giving them until 19 February 2009 to file their responses. A response was received from the first and second respondents on

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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5 June 2010. The response was forwarded to the complainant. No further submissions were received from the parties.

- 1.3 After considering the submissions before this tribunal it is considered unnecessary to hold a hearing in this matter. As the background facts are known to the parties they shall be repeated only to the extent that they are pertinent to the issues raised herein. The determination and reasons therefor appear below.

[2] FACTUAL BACKGROUND

- 2.1 Mr. M. P. Letho ("the deceased") passed away on 19 July 2004. During his life time, he was employed in the Metal Industries for some time. He later secured employment at Cason Engineering (Pty) Ltd ("Cason") from 25 June 2003 to 30 December 2003. He was re-employed from 1 March 2004 to 23 April 2004. He was at all material times a member of the first respondent by virtue of his employment. The second respondent is the first respondent's administrator. Upon his death, the complainant applied for death benefits from the first respondent.

[3] COMPLAINT

- 3.1 The complainant complains that she has not been paid any death benefit in respect of the deceased's membership in the first respondent despite making an application for it. She seeks an order directing the first respondent to pay a death benefit.

[4] RESPONSE

- 4.1 The first respondent submits that it has paid the complainant in full and final settlement of any claims in respect of the deceased's membership. The withdrawal benefit of R 5 222, 25 that was paid into

the deceased's Standard bank account on 12 June 2003 was for service until 29 December 2002. The benefit of R 4 041,12 paid to the complainant on 28 May 2010 represented the withdrawal benefit due in respect of the deceased's service in Cason, as the deceased died out of service. This amount was paid into the complainant's First National Bank account. No further benefits are due to her.

[5] STATEMENT OF DETERMINATION AND REASONS THEREFOR

- 5.1 The complainant complains that she was not paid any death benefits subsequent to the deceased's death. The respondents submitted that the deceased was not employed in the industry and was not a member when he died on 19 July 2004, so only a withdrawal benefit was paid.
- 5.2 The complainant's employment with Cason ended on 23 April 2004. This was also his last date of membership of the first respondent, at which time it became liable to pay the deceased a withdrawal benefit. He passed away on 19 July 2004, at which time he was no longer a member of the first respondent. Therefore, the first respondent is not liable to pay a death benefit to the deceased's dependants because he was not a member when he passed away. The facts indicate that the first respondent has paid the withdrawal benefit and the final payment was made on 28 May 2010. Therefore, no further benefits are due to the deceased's estate and no death benefit is payable by the first respondent.

[6] ORDER

1. The complaint is dismissed.

DATED AT JOHANNESBURG ON THIS 23rd DAY OF FEBRUARY 2011

DR EM DE LA REY
ACTING PENSION FUNDS ADJUDICATOR

Cc: Metal Industries Provident Fund
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PFA Liaison Supervisor
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Section 30M filing: Magistrate's Court

Parties unrepresented