

Adjudicator dismisses home loan complaint

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If you are granted a home loan through your pension fund, it is your duty to ensure that the repayments are deducted from your salary.

In a case that recently came before Pension Funds Adjudicator Muvhango Lukhaimane, City of Cape Town employee SN Fortuin claimed it was not his fault that the repayments had not been deducted from his salary, resulting in his loan falling into arrears. He asked for the loan to be written off.

Fortuin said he was granted a home loan of R25 000 in 1999 by the Cape Municipal Pension Fund, which is administered by Alexander Forbes Financial Services.

Between April 2000 and November 2002, his employer stopped deducting the repayments, and interest accrued on the balance.

Fortuin said the fact that the deductions had stopped was not due to any fault on his part. He said that after the deductions were reinstated, his payments increased – from R333 to R800 a month – and that, according to his calculations, by now his loan should have been paid off.

In its response, the fund said Fortuin's employer, the City of Cape Town, was responsible for deducting home loan repayments from employees' salaries. After the hiatus in repayments, the fund had sent a letter to Fortuin advising him that his deduction was not sufficient to cover at least the monthly interest accruing on the balance. Consequently, his home loan balance was not decreasing but increasing. He was advised that his repayment would be increased.

In her determination, Lukhaimane says the employer's failure to deduct amounts from Fortuin's salary and to pay them over to the fund caused the arrear interest to be added to the capital. But this did not have the effect of altering Fortuin's obligation in terms of the loan agreement.

She says that, by accepting the loan, Fortuin also accepted that the primary responsibility to repay the loan was his. He should have checked his salary slips to ensure that the amounts were being deducted. The pension fund could not be faulted for the employer's failure to effect the deductions.

She says the pension fund and the administrator could not be ordered to write off either the arrear interest on the outstanding amount or the loan. They had not committed any act or omission as a result of which Fortuin suffered a loss.

In dismissing the complaint, Lukhaimane says the salary advices that Fortuin received from his employer every month would have reflected whether or not the home loan repayments were being made.