

## Firm must make up pension payments

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Your employer cannot delay paying contributions to your retirement fund because it is going through a rough patch. The Pension Funds Adjudicator upheld this principle in a recent determination in which she praised a retirement fund for lodging a complaint against an employer after it failed to fulfil its statutory obligations to its employees.

The Consolidated Benefit Provident Fund complained to the adjudicator in March 2014 after Amanzingwe Holdings, a participating employer in the umbrella fund, did not pay contributions for August, October, November and December 2013 and for January 2014 or submit contribution schedules, the adjudicator's determination states. The fund sent a letter (dated February 28) to this effect to Amanzingwe Holdings.

Amanzingwe Holdings, which operates a conference centre and hotel in Broederstroom, did not dispute that it was in arrears with members' contributions. However, it told the adjudicator that the mining strike in North West had negatively affected its business. In addition, it was owed money by the province's education department. Amanzingwe Holdings said it had paid some of the arrear contributions and undertook to pay the outstanding amount as soon as it had received the money it was owed by third parties.

In her determination, which was handed down in May, the adjudicator, Muvhango Lukhaimane, said the Pension Funds Act obliges Amanzingwe to pay contributions and submit schedules to the fund. The Act requires that payments must be made no later than seven days after the end of the month for which the contributions are due.

In addition, the fund's rules state that "each participating employer shall contribute to the fund for retirement benefits in respect of members in its employ in accordance with the categories and contribution rates set out in the special rules".

Although Lukhaimane took note of Amanzingwe's reasons for not paying the contributions, its failure to do so would have "a devastating effect" on its employees who are members of the fund and their beneficiaries, she says.

"Therefore the respondent is ordered to pay all the outstanding contributions in light of its undertaking that it is expecting payments from its debtors.

"This tribunal cannot condone a situation where contributions go unpaid for extended periods of time, and in that respect, the actions of the complainant to protect its members and ensure that its rules are adhered to must be commended," the adjudicator says.

She ordered Amanzingwe Holdings to submit contribution schedules to the Consolidated Benefit Provident Fund to facilitate the calculation of the arrear contributions and to pay the outstanding contributions, together with late-payment interest, within certain deadlines.

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