

Fraudsters out to steal your retirement benefits

March 23 2014 at 12:10pm

By Bruce Cameron

<http://www.iol.co.za/business/personal-finance>

Beware of fraudsters who deprive the dependants of retirement fund members of their death benefits. And retirement fund trustees must take extra care to avoid having to pay a benefit more than once.

Pension Funds Adjudicator Muvhango Lukhaimane recently ruled that the Metal Industries Provident Fund must pay a death benefit of R129 512 a second time, because the fund had paid the wrong person.

A man and a woman – both of whom had identity documents in the name of Gugulethu Jack Radebe but with different identity numbers – claimed to be the dependant of the deceased fund member. The case was complicated by the fact that the man, Mr Radebe, was initially given an identity number for a woman, although the Department of Home Affairs later corrected its mistake.

On the death of the member, a claim was submitted by Ms Radebe, who said she was living with her aunt, and she produced the death certificate of her mother, the fund member.

After taking various precautions, including interviewing Ms Radebe, the fund paid the benefit to her.

But then Mr Radebe appeared and said that the money should have been paid to him. The fund's trustees decided otherwise.

Mr Radebe took his complaint to the adjudicator, who, after conducting her own investigation, found that Mr Radebe was living with his aunt in Thokoza in Gauteng, whereas Ms Radebe was living in Yeoville.

Lukhaimane says a criminal act was perpetrated by the person who claimed to be the daughter of the deceased fund member, and she ordered the fund to pay the lump sum to the Mr Radebe, who was, in fact, the member's son.

In another recent determination, Lukhaimane found that if a retirement fund and its administrator have followed the correct procedures, they cannot be held responsible if someone claims they have not been paid out as a result of fraud.

A fund member, Mr R, who had been employed by Ekurhuleni Metropolitan Municipality, demanded that the Municipal Gratuity Fund pay him his R359 378 withdrawal benefit, which, he claimed, went into the wrong bank account because of fraud.

Mr R claimed that the fund had failed to verify the legitimacy of the withdrawal claim forms and had paid his benefit into the First National Bank (FNB) account of the wrong person. This person had forged Mr R's signature and provided the fund with the details, of the FNB account, which was recently opened. Mr R stated he did not know this person, who had an identity document with a number that was the same as his.

The fund administrator, Coris, says it had not initially processed the withdrawal benefit because Mr R had not signed the exit form when he left the employ of the municipality in August 2011.

Coris told Lukhaimane that it received facsimile communication purporting to be from Mr R in April 2012, as well as a signed exit form, a copy of his identity document and his new banking details. Coris says the exit form was identical to the unsigned form submitted initially by the municipality. However, the bank details had been crossed out and replaced by a letter from FNB verifying Mr R's bank details. The identity document submitted was identical to that submitted by the municipality. The identity document submitted was not the fraudulent one, which the complainant traced at FNB.

When Coris received the payment instruction, it made sure the details of the account holder matched Mr R's details and paid the amount.

Coris says the payment was made to a bank account verified to be that of Mr R. It relied on a signed letter of authorisation and a signed exit form, and undertook a verification check on the bank account.

Lukhaimane says that Mr R needed to prove there was fraud and that Coris acted negligently or in bad faith when making the payment. Failing this, Mr R had no claim against the fund or Coris. His claim is against the alleged fraudster.

Lukhaimane says the fund and Coris cannot be held liable where, first, it has not been proved that the account into which the benefit was paid is fraudulent and, second, that they were acting in good faith and with the due diligence expected of them.