

# WIFE LOSES INHERITANCE AFTER DESERTING COMATOSE HUSBY

**IF you abscond or desert your spouse during his or her dying days, you may not inherit from the deceased estate.**

This was illustrated in the case of Bella Perry, a Beaufort West pensioner who was battling to claim her son's death benefit even though his Russian wife had abandoned him when he became gravely ill.

The Pension Fund Adjudicator last week ordered Momentum Retirement Fund to pay Perry R37 470 on the grounds that she was a dependant of her late son. Pensioner Perry, 77, who lives in an old age home, was unhappy that Momentum Retirement Annuity Fund and Momentum Group Limited had unnecessarily delayed paying her the death benefit though she was the sole-nominated beneficiary of the deceased.

Perry's problem started after her son died in April last year.

The financial institution refused to pay the death benefits to her as she was not appointed as an executor of the deceased estate, she says.

Momentum had wanted to pay the death estate to the deceased's wife, who returned to Russia when her husband was hospitalised due to a diabetic coma.

The deceased had no children and had not made a will before he died.

When Momentum failed to trace her daughter-in-law, they then wanted to trace her son's creditors, thereby unnecessarily withholding her funds, she says.

Perry says she tried becoming the executor of the deceased's estate by approaching the courts in Beaufort West, but was referred to the Pretoria master's office.

"As a frail lady, such trips were both expensive and painful, she says, adding

that she had little idea of the complexities associated with being an executor.

She says appointing an attorney as an executor would also be costly for her as it would also exceed the available benefit and with no guarantee of success in the matter.

Momentum also told her the benefit would be paid to the deceased's dependants as defined in the Pension Funds Act, Perry says.

She says Momentum tried to trace the deceased's spouse by even making use of an external tracing company, to no avail. According to Pension Funds Adjudicator Muvhango Luthkhamane, it appeared that Momentum Retirement Annuity was distributing the benefit in terms of section 37C (1) (b) of the Act, which was incorrect.

## 'Such trips were both expensive and painful'

"This section governed the distribution of a death benefit to a nominee who was not a dependant of the deceased member," she says.

According to Luthkhamane, Perry falls within the definition of a dependant in terms of the Act.

She says Momentum should have paid her the death benefit after it concluded its investigations with regards to dependants and possible dependants of the deceased.

"However, it delayed by requesting unnecessary documents from the complainant.

"Taking cognisance of all the circumstances, the payment of the death benefit to the complainant has been unreasonably and unfairly delayed," Luthkhamane says.

Luthkhamane ordered Momentum to pay the death benefit to Perry, together with interest, at the rate of 15,5% per annum.



**SERIOUS BUSINESS:** The deceased's wife left the country when he was admitted to hospital in a diabetic coma