

# **THE FINANCIAL SERVICES TRIBUNAL**

("the Tribunal")

Case No. PFA12/2025

In the matter between:

**ERHA FABRICATION AND CONSTRUCTION**

Applicant

and

**METAL INDUSTRIES PROVIDENT FUND (MEIBC)**

First Respondent

**THE PENSION FUNDS ADJUDICATOR**

Second Respondent

*Summary: Reconsideration of a decision of the Pension Funds Adjudicator (30M) in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017. Vexatious Proceedings and Summary Dismissal.*

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## **DECISION**

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### **A: INTRODUCTION**

1. The Applicant is ERHA Fabrication and Construction ("the Applicant").
2. The First Respondent is the Metal Industries Provident Fund ("MEIBC")
3. The Second Respondent is the Pension Funds Adjudicator ("the Adjudicator").
4. This is an Application in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017 against the decision taken by the Adjudicator, pursuant to a complaint laid in terms of Section 30M of the Pensions Fund Act 24 of 1956 ("the PFA").
5. The parties have waived their right to a formal hearing, and this is the

Tribunal's decision.

6. Section 230 of the Financial Sector Regulation Act 9 of 2017 ("the FSR Act") provides the basis for the Applicant to lodge this Application for reconsideration and seek appropriate relief.

**B: THE FACTS AND THE COMPLAINT**

7. The Applicant laid a complaint with the Adjudicator's office concerning  
(1) its exemption as an employer from participation in the MEIBC and  
(2) the Fund's failure to provide accurate benefit statements to its employees.
8. The Adjudicator granted the relief in relation to the provision of benefit statements and dismissed the complaint with regard to the exemption, as he found that this aspect of the complaint is not a complaint as defined in Section 1 of the PFA but is rather regulated in terms of clause 9 of the Consolidated Pension Fund Collective Agreement for the Metal Industries. In the circumstances, the Adjudicator found that the exemption issue should have instead been referred to the Labour Court for the relief sought.
9. According to the Applicant, the Fund has failed to comply with the relief granted by the Adjudicator in respect of the provision of accurate benefit statements.
10. The Applicant applied for a reconsideration of the Adjudicator's Determination on 10 March 2025, which was outside of the prescribed

period within which an application should have been made. Consequently, the Applicant has filed an Application for Condonation.

11. The Applicant has restated the grounds of its complaint in this Application for Reconsideration and has included further grounds to the original complaint that lay before the Adjudicator in the form of an additional affidavit.

## **C: THE LEGISLATION**

18. Section 1 of the PFA reads:

**"complaint"** means a complaint of a complainant relating to the administration of a fund, the investment of its funds or the interpretation and application of its rules, and alleging—

- (a) that a decision of the fund or any person purportedly taken in terms of the rules was in excess of the powers of that fund or person, or an improper exercise of its powers;
- (b) that the complainant has sustained or may sustain prejudice in consequence of the maladministration of the fund by the fund or any person, whether by act or omission;
- (c) that a dispute of fact or law has arisen in relation to a fund between the fund or any person and the complainant; or
- (d) that an employer who participates in a fund has not fulfilled its duties in terms of the rules of the fund;

but shall not include a complaint which does not relate to a specific complainant;

[Definition of "complaint" inserted by s. 1 (a) of Act No. 22 of 1996.]

## **E: DISCUSSION**

19. It is readily apparent that the complaint submitted to the Adjudicator in respect of the exemption does not amount to a complaint for the purposes of Section 1 of the PFA. In the premises, the Adjudicator was correct in dismissing this aspect of the complaint.
20. The Adjudicator has already granted the relief in respect of the provision of accurate benefit statements, and the Tribunal cannot revisit this aspect. The Applicant must take such steps as it is advised concerning the enforcement of this aspect of the relief granted by the Adjudicator.

## **F: CONCLUSION**

12. In the circumstances, the Application for a reconsideration of the Adjudicator's decision must fail.

## **ORDER**

(a) The Application for Reconsideration is dismissed.

Signed on behalf of the Tribunal on 24 June 2025.

A handwritten signature in black ink, consisting of several loops and a trailing flourish, positioned above a horizontal line.

**PJ VELDHUIZEN & LTC HARMS**