

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: PFA82/2020

In the matter between:

SEARTEC TRADING (PTY) LTD

Applicant

and

SV NGCOBO

First Respondent

SACCAWU NATIONAL PROVIDENT FUND

Second Respondent

OLD MUTUAL LIFE ASSURANCE COMPANY (SA) LTD

Third Respondent

THE PENSION FUNDS ADJUDICATOR

Fourth Respondent

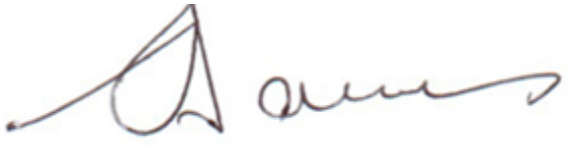
Application for reconsideration of a PFA determination

DECISION

1. It should be noted that the name of the matter as filed with the Tribunal is incorrect. The applicant used the names and designations as they appear on the determination of the PFA. The applicant believed that it would reduce the scope for misunderstanding, but it unfortunately added to the confusion.
2. This Tribunal has previously asked of the PFA to simplify her determinations and, especially, to use (for instance) instead of 'the third respondent' simply 'the Fund'. One would then have in the body of the determination the complainant, the employer, the Fund, and the administrator instead of the formal designation of each. The request is repeated.
3. The applicant, an employer, applies for the reconsideration of a determination made by the PFA. The essence of the determination concerns the contributions of the complainant, the first respondent, for the period March 1999 to June 2000.
4. The Fund and the administrator support a setting aside of the determination, and the PFA does not object thereto.
5. The matter can be disposed of on the basis that the notice to the employer of the complaint was in the circumstances unreasonable and ineffective. Notice was given during the lockdown by ordinary post. The PFA would have known that many offices were closed during that period. There is no explanation why the employer was not contacted by email or telephonically.
6. The undisputed evidence is that the applicant did not receive the notifications before the determination, which was also issued during the lockdown period.

7. The Tribunal is entitled to take notice of the fact that the Post Office is inherently dysfunctional and the PFA is requested (to the extent it has not been done) to lay down guidelines as to how those against whom complaints are laid are effectively notified of the complaints, and for telephonic and electronic follow-ups.
8. The determination is set aside, and the matter is referred back to the PFA for reconsideration.

Signed on behalf of the Tribunal on 20 April 2021.

A handwritten signature in dark ink, appearing to read "LTC Harms", enclosed in a thin black rectangular border.

LTC Harms (deputy chair)