

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: PFA48/2024

In the matter between:

MARIA WILKINSON

APPLICANT

and

THE PENSION FUNDS ADJUDICATOR

FIRST RESPONDENT

SOUTH AFRICAN RETIREMENT ANNUITY FUND

SECOND RESPONDENT

OLD MUTUAL LIFE ASSURANCE COMPANY (PTY) LTD

THIRD RESPONDENT

KELLY WILKINSON

FOURTH RESPONDENT

ANITA WILKINSON

FIFTH RESPONDENT

DECISION

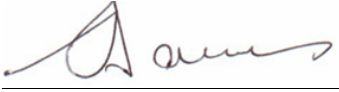
- 1 This is another chapter in an unseemly dispute of seven years between a stepmother and the daughters of her deceased husband about the allocation of the death benefits under sec 37C of the Pension Funds Act 24 of 1956.

- 2 There is a long history to the matter, which is for present purposes unnecessary to relate. The fact of the matter is that after all these years and the to-ing and fro-ing between the Fund, the Adjudicator and the Tribunal we are back where the Fund started when it allocated the death benefit in the ratio of 50% for the applicant and 25% for each of the daughters.
- 3 The Adjudicator dismissed the applicant's last complaint, and the applicant applies for reconsideration of the decision in terms of sec 230(1) of the FSR Act 19 of 2017. The application is accompanied by one for condonation for the late filing of the application and one for the submission of further evidence.
- 4 The Fund opposes these applications and seeks the dismissal of the applications.
- 5 I shall deal with the pertinent aspects only. The applicant filed with the Adjudicator after hours a reply which was not a reply in the true sense but 'new' evidence although the applicant states that the Adjudicator knew most of the facts. The Adjudicator, unaware of this, decided the case without the documents.
- 6 That, in the ordinary course, could be a ground for reconsideration but the applicant has, as stated, applied for these documents to be admitted as new evidence. The problem though is that the new evidence is about family dynamics and a complaint primarily about how bad the first wife was and the poor relationship between father and daughters, all due to the daughters' behaviour.
- 7 This boil is older than seven years and there was no justification for filing the allegations at this late stage. The allegations are not only irrelevant but vexatious

and scurrilous. The cutting about the qualities of the deceased is completely irrelevant. The additional evidence about the applicant's health does not add anything material to what had been provided before. The application for submission of new evidence is thus summarily dismissed.

- 8 The run-up to the late filing of the reconsideration application consisted of inter alia an attempt to file a reconsideration application of an earlier decision of this Tribunal, which was rejected by the Secretariat for registration. That did not deter the applicant.
- 9 The basis of the present application is, in essence, that this Tribunal had erred in that decision. In other words, the applicant wishes to relitigate the same issues. What this establishes is that the prospects of success are minimal – one panel is not there to second guess another panel.
- 10 The other aspects raised by the applicant are inconsequential. She is relatively wealthy and not candid about her financial position. The bottom line is that she does not wish to share the benefit with her stepchildren because of the nomination by the deceased. That is not a ground.
- 11 The fact that she may retire soon and that the business may not have any goodwill does not take the matter any further. The test to apply is the financial position at the time of death.
- 12 The complaint about the delay by Old Mutual and the alleged incompetence of the office of the Adjudicator do not affect the merits of the application.

ORDER: The condonation application is dismissed for lack of prospects of success and the file is closed.

A handwritten signature in blue ink, appearing to read "LTC Harms", is positioned above a horizontal line.

LTC HARMS

Chairperson

10 October 2024