



**Financial Services
Tribunal**

THE FINANCIAL SERVICES TRIBUNAL

Case No. PFA81/2025

In the matter between:

BONGINKOSI HERBET FUNDZO

Applicant

and

THE MINEWORKERS PROVIDENT FUND

First Respondent

**MOMENTUM CORPORATE DISABILITY
CLAIM CONSULTANT /
MOMENTUM WELLNESS CARE CENTRE**

Second Respondent

SIBANYE STILLWATER

Third Respondent

THE PENSION FUND ADJUDICATOR

Fourth Respondent

TRIBUNAL PANEL: PJ Veldhuizen and LTC Harms

Appearance for Applicant: n/a

Appearance for Respondent: n/a

Date of hearing: n/a

Date of Decision: 24 February 2025

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. Pension Funds Adjudicator's jurisdiction is defined under section 30D of the Pension Funds Act.

DECISION

A: INTRODUCTION

1. The Applicant is Bonginkosi Herbet Fundzo ("the Applicant").
2. The First Respondent is the Mineworkers Provident Fund (Pty) Ltd ("the Fund").
3. The Second Respondent is Momentum Corporate Disability Claim Consultant / Momentum Wellness Care Centre ("the Consultant").
4. The Fourth Respondent is the Pension Funds Adjudicator ("the Adjudicator").
5. 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").
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 complaint to the Adjudicator related to the non-payment of the Applicant's permanent disability benefit by the Fund.

8. In her Determination, the Adjudicator found that the Applicant's employment had been terminated due to ill-health and that he had been paid his credit in the Fund of R352,450.58. She further determined that the permanent disability benefit had been correctly repudiated because the Applicant was not permanently disabled. Put differently, the Applicant's medical report dated 10 January 2022 indicated that he was fit to go back to work and was only unable to work underground for six (6) months.

9. The Applicant alleged further that the Adjudicator had failed to address the complaint regarding the payment of a total temporary disability benefit. The Adjudicator filed Further Reasons in accordance with Rule 13 of this Tribunal's Rules, the gravamen of which is that the Adjudicator lacked jurisdiction to consider this complaint and indicated as follows:

The rules of the First Respondent (page 97) define disabled/disablement as follows:

"Disabled means a Member is: -

- (a) Permanently unfit to continue in or resume employment in the category of work on which he has been employed in the Service of the Employer; and

- (b) Permanently unfit to continue in or resume employment in any other category of work for which the Council minimum annual basic Wages are greater than or equal to those for the category of work in which he has been so employed."

Further, clause 1.2.9 of the reinsurance policy (page 74) document defines disability as follows:

"Disability means Total and Permanent Disablement as defined."

Clause 2.3 of the policy document (page 79) provides for temporary absence from the service of the Employer at the insurer's discretion.

B: DISCUSSION

10. It is clear from the medical report that the Applicant was not permanently disabled and that, in the light of the medical report, the Adjudicator had decided this point correctly.
11. Furthermore, on the question of the total temporary disability benefit, disability benefits provided through separate schemes or group life insurance policies, which are not part of the rules of a pension fund, do not fall within the jurisdiction of the Pension Funds Adjudicator. The assertions made by the Adjudicator in the Further Reasons are correct.

C: CONCLUSION

12. In the circumstances, the Application for a reconsideration of the Adjudicator's decision should be dismissed.

ORDER

- (a) The Application for Reconsideration is dismissed.

Signed on behalf of the Tribunal on 24 February 2026.

___*Sgd PJ Veldhuizen*_____

PJ VELDHUIZEN & LTC HARMS