



Case No: PFA59/2025

In a matter between:

YEKELELA ZIKWE

APPLICANT

and

AMPLATS GROUP PROVIDENT FUND

FIRST RESPONDENT

ALEXANDER FORBES FINANCIAL SERVICES

SECOND RESPONDENT

AMANDELBULT MINE

THIRD RESPONDENT

PENSION FUNDS ADJUDICATOR

FOURTH RESPONDENT

TRIBUNAL PANEL: Judge FD Kgomo, Ms Moloto-Stofile & Adv K.D Magano

FOR THE APPLICANT: No appearance/In default

FOR THE FUNDS ADJUDICATOR: Abides the Decision. Only watching brief.

Date of Hearing: 13 April 2026

Date of Decision: 7 May 2026

Summary: *Application for reconsideration in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 — Pension Funds Act 24 of 1956 — section 30l — time-barring of complaints — whether the Pension Funds Adjudicator erred in dismissing a complaint lodged 17 years after termination of employment — application of the three-year prescription period — absence of contemporaneous evidence of fund membership or underpayment — application dismissed.*

DECISION

INTRODUCTION

1. This is an application for reconsideration brought in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 (“FSR Act”). The Applicant seeks reconsideration of a determination issued by the Pension Funds Adjudicator on 29 May 2025.
2. In that determination, the Fourth Respondent, the Pensions Funds Adjudicator (“the Adjudicator”) dismissed the applicant’s complaint concerning the alleged non-payment of retirement benefits arising from the termination of his employment in 2008.
3. The Adjudicator found that the complaint was time-barred under section 30l of the Pension Funds Act 24 of 1956 and declined to investigate its merits.
4. The applicant now seeks to set aside that determination. In doing so, he also applies for condonation for the late filing of the reconsideration application.

5. The central issue is whether the Adjudicator erred in concluding that the complaint is time-barred and, if so, whether the determination falls to be set aside.

PROCEDURAL ISSUES

6. Before turning to the factual background, it is necessary to address a procedural issue concerning the hearing of this matter.
7. This application for reconsideration was set down for hearing on 10 April 2026. On 8 December 2025, the Tribunal issued a directive informing the parties of the date, time and mode of hearing for this matter. The directive made it clear that the matter would proceed by way of an in-person hearing. The applicant was aware several months in advance of both the date and the manner in which the proceedings would be conducted.
8. Following receipt of the directive, the applicant engaged with the Tribunal Secretariat and requested that an interpreter be made available at the hearing. Arrangements were duly made at his instance. By making that request, the applicant essentially admitted that he knew the hearing was to be held in person and that he was expected to be physically present.
9. Notwithstanding this, the applicant sought a postponement shortly before the scheduled hearing. The reason proffered for the postponement is that he was unaware that the matter was set down for an in-person hearing.

10. The Tribunal, through its Secretariat, informed the applicant that the matter would proceed as scheduled. In doing so, it drew attention to the fact that the hearing had long been set down, that arrangements to appoint an interpreter had already been made at his request, and that costs had been incurred in consequence thereof. The applicant was further advised that, should he fail to attend, the application stood to be dismissed for non-prosecution in terms of the Tribunal Rules. He was also afforded the election to have the matter determined on the papers.
11. The applicant nevertheless persisted in his request for a postponement in an email dated Sunday, 9 April 2026, at 10:33. He did not attend the hearing. Nor did he avail himself of the opportunity to have the matter determined on the papers.
12. In these circumstances, the Tribunal was faced with a matter that had been properly set down, in respect of which the applicant had been afforded adequate notice and a full opportunity to participate, and in respect of which no proper basis for postponement had been established. The Tribunal was accordingly entitled to proceed, and did proceed, to determine the matter on the record before it.

FACTUAL BACKGROUND

13. The first respondent is the Amplats Group Provident Fund ("the Fund"), a pension fund organisation duly registered in terms of the Pension Funds Act 24 of 1956. The Fund is the primary entity responsible for providing retirement and withdrawal benefits to its members.

14. The second respondent is Alexander Forbes Financial Services (Pty) Ltd ("the Administrator"). The Second Respondent is cited in its capacity as the administrator of the First Respondent, appointed in terms of Section 13B of the Pension Funds Act. In this role, the Second Respondent provides administrative services to the Fund, including maintaining member records and processing benefit claims. It is noted that the Second Respondent's appointment as administrator commenced on 1 June 2021, succeeding the previous administrator, Sanlam Employee Benefits.
15. The third respondent is Amandelbult Mine ("the Employer"), the entity that employed the Applicant from 25 January 2001 until 25 May 2008. The third respondent is a participating employer of the first respondent. The relationship between the first and third respondents is governed by the Rules of the Fund, which require the Employer to facilitate membership and remit contributions on behalf of its employees to the Fund.
16. The applicant's employment with the third respondent commenced on 25 January 2001. His service continued for approximately seven years until 25 May 2008, when his employment was terminated on the grounds of misconduct related to absenteeism.
17. It is common cause that during his employment tenure, the applicant was a member of the first respondent. Upon the termination of his employment in 2008, the applicant became entitled to a withdrawal benefit. The applicant acknowledges that he received a payment of this benefit; however, he contends that he did not receive the full quantum to which he was entitled.

18. Although the claim arose in May 2008, the applicant formally lodged a written complaint with the fourth respondent seeking payment of the alleged shortfall only on 11 April 2025. This complaint was brought approximately 17 years after his employment terminated and the alleged benefit shortfall accrued.
19. In response to the complaint, the first and second respondents submitted that an extensive search of their electronic and physical records yielded no trace of the applicant's membership. The second respondent specifically stated that, because its tenure as administrator began only in 2021 and the applicant exited the Fund in 2008, no records regarding his specific claim were migrated into its systems.
20. The Adjudicator afforded the applicant an opportunity to substantiate his claim by producing contemporaneous documentation. The applicant failed to do so. In particular, he did not produce any payslips reflecting provident fund contributions, benefit statements, or other records to prove his claim.
21. On 29 May 2025, the Adjudicator issued its determination. The Adjudicator declined to investigate the merits of the complaint, finding that the matter was time-barred under Section 30I of the Pension Funds Act. The Adjudicator reasoned that since the cause of action arose in 2008, the three-year statutory period for lodging a complaint had expired in May 2011.
22. Furthermore, the Adjudicator stated that while a record of service confirms a historical employment relationship, it does not, without more, constitute proof of membership in a specific retirement fund.

23. Aggrieved by this decision, the applicant now approaches this Tribunal for a reconsideration of the adjudicator's determination, primarily on the basis that he believes his years of service entitle him to further payment regardless of the delay.

LEGAL ISSUES

24. The issue is whether there are any grounds to interfere with the Adjudicator's decision to dismiss the complaint on the basis that the applicant's complaint is time-barred in terms of section 30I of the Pension Funds Act.

ANALYSIS AND FINDINGS

27. Section 30I of the Pension Funds Act 24 of 1956 provides:

"30I. Time limits for lodging of complaints

(1) The Adjudicator shall not investigate a complaint if the act or omission to which it relates occurred more than three years before the date on which the complaint is received by him or her in writing.

(2) The provisions of the Prescription Act 68 of 1969 relating to a debt apply in respect of the calculation of the three-year period referred to in subsection (1)."

28. The language of section 30I(1) is peremptory. The Adjudicator is precluded from investigating a complaint where the underlying act or omission occurred more than three years before the complaint is lodged. The provision operates as a statutory limitation on the Adjudicator's jurisdiction.

29. In the present matter, the Applicant's employment was terminated on 25 May 2008. Any entitlement to a withdrawal benefit, and any complaint arising from an alleged shortfall, arose at that time or shortly thereafter. The three-year period contemplated in section 30I accordingly expired in or about May 2011.

30. The Applicant lodged his complaint on 11 April 2025, some 17 years after the termination of his employment and approximately 14 years after the expiry of the statutory period.

31. In those circumstances, the Adjudicator was not competent to entertain the complaint. Once it was established that the complaint fell outside the period prescribed by section 30I, the Adjudicator was precluded from investigating its merits.

CONCLUSION

32. The dispositive issue in this matter is whether the Adjudicator was competent to entertain the complaint. For the reasons set out above, the complaint was lodged well outside the three-year period prescribed by section 30I of the Pension Funds Act 24 of 1956.

33. In those circumstances, the Adjudicator was precluded from investigating the complaint. It follows that the determination cannot be faulted on that basis.

34. In any event, the material placed before the Tribunal does not establish a factual foundation for the claim. The applicant has not produced contemporaneous documentation linking him to support the alleged shortfall.

35. The application for reconsideration accordingly falls to be dismissed.

ORDER:

36. As a result, the following order is made:

36.1. The application for reconsideration is dismissed.

Signed on behalf of the Tribunal panel.

_____ *Sdg Adv KD Magano* _____

KD MAGANO