



THE FINANCIAL SERVICES TRIBUNAL

CASE NO: PFA50/2025

In the matter between:

KGOTLELELO ISRAEL RAMPEDI

Applicant

And

THE PENSION FUND ADJUDICATOR

First Respondent

**PROPERTY PRACTITIONERS REGULATORY
AUTHORITY**

Second Respondent

**PROPERTY PRACTITIONERS REGULATORY
AUTHORITY PENSION FUND**

Third Respondent

TRIBUNAL PANEL: Judge C Pretorius, M Mphaga SC and PR Long

Date of hearing: 25 February 2026

Date of Decision: 09 April 2026

For the Applicant: In Person

For the First Respondent: N/A

For the Second Respondent: N/A

For the Third Respondent: N/A

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

Introduction

1. This is an application brought by Kgotlelelo Israel Rampedi ("the Applicant") for reconsideration in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 ('the FSR Act') against the decision taken by the Pension Fund Adjudicator ("the PA"), pursuant to a complaint laid in terms of Section 30A of the Pension Funds Act 24 of 1956 ("the PFA").
2. 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. The Applicant has on this basis brought an application for reconsideration dated 17 July 2025 wherein he has set out various grounds for reconsideration and the relief he seeks.
3. The Application for reconsideration is opposed by the Property Practitioners Regulatory Authority ("the employer") which is cited as the Second Respondent. The Pension Fund Adjudicator ("the Adjudicator") has made submissions in terms of Rule 13 of the Tribunal for our consideration in response to the Applicant's application. The Fund was also represented at the hearing and oral submission were made briefly on its behalf. None of the parties was legally represented.

Relevant background

4. The Applicant was employed by the employer as a Transformation Administrator with effect from 01 July 2019. In terms of the offer of employment letter dated 20

May 2019, the Applicant's total salary package of R248 297,00 per annum, included the fixed income and allowances applicable to his position as well as the Employer's contributions to pension fund and medical aid. The Applicant was employed on a Cost to Company basis.

5. The Applicant was in terms of paragraph 5 of the offer of employment letter dated 20 May 2021, enjoined to join the Employers pension fund namely the Property Practitioners Regulatory Authority Pending Fund ("the Fund"). The Applicant and four other employees, namely Mr P Mafumadi, Mr J Setloboko, Ms T Ramatapa and Mrs L Nkosi ("the affected Employees") despite being advised by the Employer that it was mandatory for them to join the Fund and make monthly contributions towards their pension fund, elected not to join and make the relevant contributions. According to the Employer, its then Chief Executive Officer instructed the Human Resource division to implement the wishes of the affected Employees despite being advised by the Principal Officer of the Fund and the Human Resources Division about the implications of these employees not joining the Fund.
6. The affected Employees appears to have been reluctant to allow pension fund deductions from their salaries as this affected their nett salaries. With effect from 01 July 2019, the affected employees including the Applicant continued to enjoy their full Cost to Company remuneration without any pension fund deductions. However, it appears that the employer had two salary structures, namely the cost to company and the basic plus-benefits. The Basic Plus benefits salary structure was more beneficial as it allegedly resulted in more benefits and a higher net salary. This fact was confirmed by the employer's representative during the hearing, who confirmed that it was unaffordable to the employer as it *inter-alia* incorporates the pension funds deduction payable to the Fund. To this end, on 11 June 2020, the applicant and other employees who were paid a cost to company salary referred a dispute based on unfair discrimination to the CCMA after having failed to resolve same with the employer.
7. On 10 November 2020 the CCMA issued an award in favour of the applicant and the affected employees and *inter alia* ordered the employer to pay each employee compensation in the amount of R30 000,00 and put the employees on the basic plus benefits salary structure with effect from 1 November 2020 by no later than 16 November 2020. The employer paid the R30 000,00 compensation to each of the affected employees but has to date failed to implement the order to put the affected employees on a basic plus benefits. The employer further continued to pay the applicant and the affected employees their salaries without any pension fund deduction. However, on 9 February 2021 the Fund formally referred a complaint with the Pension Fund Adjudicator ("the Adjudicator") for the

failure of the employer to comply with the mandatory requirement to deduct the aforesaid pension benefits from the affected employees.

8. On 14 October 2021, having considered the complaint from the Fund and the representations or submissions from the respondents, the Adjudicator ordered the employer to *inter alia* register the affected employees with the Fund and to pay to the Fund the arrear contributions plus late payment interest to date. With regard to the Applicant, his arrear contributions were calculated from 1 July 2019 to the date of the order.
9. Upon receipt of the determination and order of the Adjudicator, the Employer addressed a letter dated 28 April 2021 to the Applicant advising him of its intention to implement the order of the Adjudicator dated 14 October 2021 and to recover the outstanding pension contributions from the Applicant which were paid on his behalf by the Employer. The letter also advised the Applicant that he would be required to make the mandatory pension fund contributions hence-forth in order to comply with the PFA. The Applicant was further informed that should he be unable to pay the outstanding amount in full, he would be required to enter into an Acknowledgement of Debt Agreement with the employer to be submitted to the Human Resource department of the employer by 4 May 2022. The employer had intended to implement deductions from May 2022 until the end of the financial year in March 2023.
10. The employer implemented the order of the Adjudicator by registering the affected employees with the Fund and paid their total arrear pension contributions, in the amount of R1 146 046, 00 inclusive of interest for the period 2019 to 2022 to the Fund during November 2021. This amount constituted full pension contributions consisting of both employer and member portions in compliance of the Adjudicator's determination. The employer had requested the affected employees to sign Acknowledgement of Debts, however they refused or failed to sign same. The employer proceeded to deduct a total amount of R83 000,00 from the Applicant's salary for the period October 2022 to May 2024. It is common cause that the employer referred the Adjudicator's determination dated 8 November 2024 to this Tribunal which remitted the matter back to the Adjudicator to consider the submissions made by the employer that the employee was employed on a cost to company salary basis and his gross salary included both the employer and members contribution. The Adjudicator in granting the order did not take into account the employee's salary structure and thus the determination ordering the Fund to only refund the members' contribution stood to be reconsidered.
11. Having received the decision from this Tribunal the Adjudicator invited the parties to make submissions regarding the impact of the employee's remuneration

structure on the determination dated 8 November 2024. The Adjudicator considered the submissions made by the parties, in particular taking into account that the Applicant was employed on a Cost to Company salary structure and despite the CCMA award dated 10 November 2020 the employer conceded that it had not implemented same in so far as to change the Applicant's salary structure from Costs to Company to Basic Plus benefits. It is apposite to mention that the Applicant was terminated from his employment in June 2024 and thus became entitled to his withdrawal benefit from the Fund. However, pending the decision of this Tribunal to reconsider the Adjudicator's determination of 8 November 2024, the Fund paid the Applicant a withdrawal benefit of R326 435.00 on 17 January 2025 and R116 003.00 was paid to the employer on 21 January 2025 as a deduction from the Applicant's withdrawal benefit.

12. Having considered the submissions of the parties, the Adjudicator in the determination dated 27 June 2025, and as per the order of this Tribunal, reconsidered her determination dated 8 November 2024 and dismissed the complaint of the Applicant.
13. The Applicant is approaching this Tribunal for the reconsideration of the Adjudicator's determination dated 27 June 2025.

Discussion

14. The Applicant seeks the following relief as set out in his application for reconsideration dated 17 July 2025.

" ...

1. *The decision of the First Respondent failed to address the material disputes of facts.*
 2. *The Adjudicator erred in fact, law and there was a failure to consider material and uncontested documentary evidence.*
 3. *The decision falls to be reviewed and be as subject of reconsideration in accordance with full record of the facts and evidence presented.*
 4. *I submit my prayer that the matter be adjudicated by the FST through its hearing processes as deemed fit."*
15. While the Applicant makes reference to material dispute of facts, in our view there are no such material dispute of facts and most if not all the facts before us are common cause. The issues that stand to be decided are whether the Applicant is entitled to be refunded the amount of R83 433.00 which was deducted from his salary for the repayment of the "loan" advanced to him for the repayment of the pension fund benefits paid on his behalf by the employer and whether the

amount of R116 003,00 should not have been deducted from the Applicant's withdrawal benefit for the repayment of the debt owed to the employer.

16. It is apparent that when the Adjudicator made the determination dated 8 November 2024, she did not take the Applicant's salary structure into account. The Adjudicator has in her determination dated 27 June 2025 considered the submission of all parties and in particular the employer's submissions which have made it clear that as at the time of the Applicant's termination of employment he was still employed on a Cost to Company salary structure. It was further submitted on behalf of the employer during the hearing that the CCMA Award granted in the Applicant's favour ordering the employee to be put on a Basic Plus benefit structure was not implemented by the employer. It was argued on behalf of the employer that the implementation of the award to that effect would be unaffordable as it would require the employer to pay both the employer and the members portion of the pension fund to the Fund.
17. It became apparent to us during the hearing that the Applicant has to date not enforced the award of the CCMA pertaining to the failure by the employer to put him on a Basic Plus benefit structure. Had the CCMA Award been enforced, it would have entitled the Applicant to be placed on the Basic Plus benefit salary structure with effect from 1 November 2020. The failure by the Applicant to enforce the CCMA Award in respect of his salary structure, has invariably retained him on the Costs to Company salary structure. By having refused to be registered with the Fund and to make pension fund contributions, the Cost to Company salary structure meant that the Applicant received both the employer and members portion of the pension in his gross salary. The employer was therefore justified to complain that it was entitled not only to the member's portion of the pension fund it had paid to the Fund in compliance with the Adjudicator's determination but also to the employer's contribution.
18. Having considered the applicant's application for reconsideration we are satisfied that the Adjudicator was correct in finding that she was constrained by the provisions of section 30H of the Pension Funds Act not to enforce the aforesaid arbitral award granted in favour of the Applicant and that she had no jurisdiction to make a determination on the alleged unlawful deduction of R83 433.00 from the Applicant's salary in contravention of section 34 of the Basic Conditions of Employment Act, No 75 of 1997.
19. The adjudicator has further relied on section 30D(2)(a) of the Pension Fund Act which allows her to exercise her discretion to apply the principle of equity where appropriate. In this regard, the Adjudicator correctly and judiciously applied the principle of equity by finding that the refund of both the employer and member's portion for July 2019 to October 2021 were justifiably refunded by the Fund to

the employer despite such deduction not falling within the ambit of section 37D(1)(b)(ii) of the Pension Fund Act. Noting that the Applicant continued to be employed on a Cost to Company salary structure, he would have been unduly enriched if he was to be paid both the R83 433.00 and the R116 003.00 refunded to the employer. The employee's remedy lies with the enforcement of the arbitral award which cannot be enforced by the Adjudicator or this Tribunal.

20. Consequently, it is for the above reasons that we find that the Applicant has not made out a case for reconsideration of the decision of the Adjudicator in terms of section 230 of the FSR Act. There is no basis for us to interfere with the decision of the Adjudicator dated 27 June 2025, as we are satisfied on the facts before the Tribunal and applying the law that the Applicant has not made out a case for reconsideration.

ORDER

The application for reconsideration is hereby dismissed.

Signed on behalf of the Tribunal on 09 APRIL 2026 by **Adv M Mphaga SC** (Panel Member) with the panel:

___Sgd Adv M Mphaga SC_____

Adv M Mphaga SC