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Please quote our reference: **PFA/FS/12201/2007/SGM**

**REGISTERED POST**

Ms M D Sekoere  
P.O. Box 160  
Mazenod  
**MASERU**  
100

Dear Madam,

**DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT NO. 24 OF 1956 (“the Act”) – M D SEKOERE (“complainant”) v MURRAY & ROBERTS (RUC) PROVIDENT FUND (“first respondent”) AND MURRAY & ROBERTS (RUC) MINING CONTRACTING COMPANY (PTY) LTD (“second respondent”)**

**[1]    INTRODUCTION**

1.1    The complaint concerns the non-payment of a death benefit by the fund.

1.2    The complaint was received by this office on 12 March 2007. A letter acknowledging receipt of the complaint was sent to the complainant on 11 April 2007. On 29 October 2008 a letter was dispatched to the

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The Office of the Pension Funds Adjudicator was established in terms of Section 30B of the Pension Funds Act No. 24 of 1956.

-The service offered by the Pension Funds Adjudicator is free to members of the public-

respondents giving them until 26 November 2008 to file their response to the complaint. A response was received from the respondents on 30 October 2008. No further submissions were received.

- 1.3 After considering the written submissions that have been received, it is considered unnecessary to hold a hearing in this matter. The determination and the reasons therefor are set out below.

## **[2] FACTUAL BACKGROUND**

- 2.1 The complainant was the spouse of the late Mr T D Sekoere, (“the deceased”) who passed away on 27 April 2006.

## **[3] COMPLAINT**

- 3.1 The complainant submitted that the deceased was employed by Murray & Roberts (RUC) Mining Contractors at the time of his death. She further submitted that he started to contribute to the first respondent from 2004 until he passed away on 27 April 2006. She stated that she wants the deceased's contributions paid to her.

## **[4] RESPONSE**

- 4.1 The respondents submitted that the deceased was employed by M & R RUC from 9 July 2001. Due to operational requirements on 7 June 2005 notices were served to all employees that the contract would be terminated on 23 August 2005. They further submitted that severance packages were paid to effected employees (including the deceased). They stated that this was the last time that he was part of their company.

- 4.2 On 30 October 2008 the respondents further submitted proof of payment of the deceased's benefit which was paid on 20 September 2005.

**[5] DETERMINATION AND REASONS THEREFOR**

- 5.1 The first issue to be determined is whether any benefit became payable following the deceased's death.
- 5.2 In *casu*, the deceased was no longer a member of the first respondent at the time of his death. His employment was terminated on 23 August 2005 and his severance package was paid to him, including his fund credit, on 20 September 2005. The respondents provided this Tribunal with a copy of the proof of payment of the withdrawal benefit.
- 5.3 In terms of the rules of the first respondent, a withdrawal benefit became due and payable to him. The applicable rule reads as follows:

“10.2 Retrenchment

If a MEMBER is retrenched by his EMPLOYER and he is not retiring in terms of RULE 9.2 he shall be entitled at the date of retrenchment to his SHARE ACCOUNT”.

- 5.4 The complainant is not entitled to receive any death benefit due to the fact that the deceased was no longer a member of the first respondent when he passed away. The first respondent had paid him his withdrawal benefit. No further benefit is payable.

**[6] ORDER**

1. In the result, this complaint cannot succeed and is hereby dismissed.

**DATED AT JOHANNESBURG ON THIS 25<sup>th</sup> DAY OF MARCH 2011**

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**DR E M DE LA REY**  
**ACTING PENSION FUNDS ADJUDICATOR**

**Cc:** Murray & Roberts (RUC) Provident Fund  
C/o Murray & Roberts Cementation  
Private Bag 3010  
**BEDFORDVIEW**  
2008

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**Section 30M filing: Magistrate's Court**

*Complainant represented*

*Respondents unrepresented*