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Superintendent of
Financial
Services



Surintendant des
services
financiers

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “PBA”)

AND IN THE MATTER a Notice of Intended Decision of the Superintendent of Financial Services to Refuse to Make an Order under section 87 of the *PBA* relating to **The Retirement Plan for Organized Employees of Tembec Enterprises Inc.** – Kapuskasing Operations, Registration Number **0342352**

TO:

Craig Colpitts
10 Des Aulnes
Val Rita ON P0L 2G0

Complainant

AND TO:

Tembec Enterprises Inc.
100 Chemin Gatineau
C.P. 5000
Temiscaming QC J0Z 3R0

Attention: Pauline Simard

Administrator

NOTICE OF INTENDED DECISION

I INTEND TO REFUSE TO MAKE AN ORDER under section 87 of the *PBA* relating to the Retirement Plan for Organized Employees of Tembec Enterprises Inc. – Kapuskasing Operations, Registration Number 0342352 (the “Plan”) requiring that the Administrator make an additional bridge benefit payment to the Complainant.

REASONS:

1. It is the Complainant's position that his bridging benefit was wrongfully terminated based on his birthday, in contravention of the definition of "bridging benefit" in the PBA, and that he is entitled to payment of the bridging benefit for the month of April, 2012.
2. Under the PBA, "bridging benefit" means "a periodic payment provided under a pension plan to a retired member of the pension plan for a temporary period of time for the purpose of supplementing his or her pension benefit until he or she is eligible to receive benefits under the Old Age Security Act (Canada) or is either eligible for or begins to receive retirement benefits under the Canada Pension Plan or the Quebec Pension Plan".
3. Subsection 51(2) of Ontario Regulation 909 made under the PBA (the "Regulation") provides that "if a pension plan provides a bridging benefit without specifying the age at which the benefit is reduced or ceases, the plan is deemed to specify that the bridging benefit is reduced or ceases when the member, former member or retired member reaches 65 years of age."
4. Subsection 51(3) of the Regulation provides that "...subsection (2) does not apply if the pension plan is amended after December 31, 1986 to specify that the bridging benefit is reduced or ceases in one, or both, of the following circumstances: 1. When the member, former member or retired member reaches a specified age that is younger than 65 years of age. 2. When a specified event occurs."
5. The Plan, at section 4.06(a), provides for the payment of a bridging benefit "...payable until the first of the month prior to the attainment of age 65 or the prior death of the Pensioner".
6. Pension payments made from the Plan's pension fund are paid in advance, on the first banking day of a month for that month.
7. The Complainant's first pension payment, made on April 1, 2007, was payable for that month (i.e., April, 2007). The payment included a bridging benefit in accordance with the Plan terms.
8. The Complainant retired on March 31, 2007, prior to his 65th birthday.
9. The Complainant's birthday is April 1st and he attained 65 years of age on April 1, 2012.
10. Payment of the Complainant's bridging benefit was made until March 1, 2012, and ceased on April 1, 2012, in accordance with the Plan terms. The March 1, 2012, payment was made in advance in respect of the month of March, 2012.
11. Subsection 87(2) of the PBA provides the following condition precedent to making an Order under section 87:
 - o (2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,
 - o (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
 - o (b) that the pension plan does not comply with this Act and the regulations; or
 - o (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.
12. There has been no contravention of the PBA, its regulations or the Plan.
13. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Intended Decision is served on you.**¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION on a Form for the written notice, please see the Tribunal website at www.fstontario.ca or contact the Registrar of the Tribunal by phone at 416- 590-7294, toll free at 1-800-668-0128, ext. 7294, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE INTENDED DECISION AS DESCRIBED IN THIS NOTICE.

DATED at Toronto, Ontario, this **8th** day of **August, 2012.**

Original Signed By

K. David Gordon

Deputy Superintendent, Pensions

¹NOTE - Pursuant to section 112 of the *PBA* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by regular mail and any document sent by regular mail shall be deemed to be given, served or delivered on the fifth day after the date of mailing.

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