

FINANCIAL SERVICES TRIBUNAL

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

AND IN THE MATTER OF a Notice of Proposal to Refuse to Consent (a "Notice") by the Superintendent of Financial Services (the "Superintendent") with respect to an application for withdrawal of money from a life income fund, a locked-in retirement account or a locked-in retirement income fund (a "locked-in account") based on financial hardship;

AND IN THE MATTER OF a Hearing under subsection 89(8) of the Act.

REASONS

1. The Applicant in this matter made an application to the Superintendent, on the basis of financial hardship, for access to funds associated with a locked-in account in her name.
2. The Superintendent proposed to refuse the application, by a Notice dated February 7, 2001, on the grounds that the circumstances of the Applicant, as disclosed by the application, are not circumstances of financial hardship as prescribed by subsection 87(1) of Ontario Regulation 909, as amended, adopted under the Act. This Tribunal agrees with the Superintendent that this is indeed the case.
- 3.. The Tribunal does not have the authority to consent or to direct the Superintendent to consent to an application for a withdrawal from a locked-in account that does not meet the requirements for obtaining consent that are set out in the Regulation, including the requirement that the circumstances of the Applicant fall within the prescribed circumstances of financial hardship. Therefore, although the evidence of financial hardship on the part of the Applicant is compelling, the application in this case cannot be granted because of the failure to meet those requirements. If the Applicant is able to establish, on the basis of additional evidence, that her circumstances do, in fact, meet those requirements she could, of course, make a further application for withdrawal to the Superintendent.
4. The Tribunal must, therefore, affirm the Superintendent's Notice dated February 7, 2001 in respect of the present application.

ORDER

The Superintendent is hereby directed to carry out the proposal contained in the Notice, dated February 7, 2001, directed to the Applicant.

Dated at Toronto, this 28th day of March, 2001.

“Colin H.H. McNairn”

Colin H. H. McNairn
Vice Chair
Financial Services Tribunal