

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, (the “Act”), in particular sections 87 and 89;

AND IN THE MATTER OF the Ontario Public Service Employees’ Union Pension Plan, Registration Number 1012046 (the “Plan”).

REFUSAL TO ORDER

On November 20, 2019, pursuant to subsection 89(2) of the Act, by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Executive Vice President, Pensions (the “EVP”) issued a Notice of Intended Decision to refuse a request from Errol McHayle (the “Applicant”) to make an order under section 87 of the Act.

The Applicant requested an order under section 87 of the Act:

- a) declaring Amendment No. 22 to the Plan void;
- b) requiring the Plan to make additional payments to the Applicant with respect to the transfer of the Applicant’s pension benefits from the Plan to the Public Service Pension Plan; or
- c) declaring that the Plan has otherwise breached the Act in its dealings with the Applicant.

A Request for Hearing (Form 1), dated December 6, 2019, was delivered to the Financial Services Tribunal (the “Tribunal”) in accordance with subsection 89(6) of the Act respecting the Notice of Intended Decision.

The Tribunal held an oral hearing on February 3, 4, and 9, 2021. The Ontario Public Services Employees Union (“OPSEU”), the OPSEU Pension Plan Trust Fund, and the Treasury Board Secretariat were granted party status and participated in the hearing.

The Tribunal, in its Reasons for Decision dated March 26, 2021 (the “Decision”), directed the Chief Executive Officer to carry out the decision reflected in the Notice of Intended Decision

The Applicant appealed the Decision to the Divisional Court for Ontario under section 91 of the Act. The Divisional Court dismissed the Applicant’s appeal on March 11, 2022. The Applicant sought leave to appeal the decision of the Divisional Court to the Court of Appeal for Ontario. The Court of Appeal denied the Applicant leave on September 2, 2022. Therefore, the Decision is final.

REFUSAL TO ORDER

An Order

- a) declaring Amendment No 22 to the Plan void;
- b) requiring the Plan to make additional payments to the Applicant with respect to the transfer of the Applicant's pension benefits from the Plan to the Public Service Pension Plan; or
- c) declaring that the Plan has otherwise breached the Act in its dealings with the Applicant

is hereby refused, for the reasons set out in the Decision.

DATED at Toronto, Ontario, September 20, 2022.



Caroline Blouin
Executive Vice President, Pensions

By delegated authority from the Chief Executive Officer

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