

**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 by the Superintendent of Financial Services (the “Superintendent”) on January 6, 2003 with respect to an application for withdrawal of money from a life income fund, locked-in retirement income fund (a “locked-in account”) based upon financial hardship;

**AND IN THE MATTER OF** a Request for Hearing under subsection 89(8) of the Act;

**R E A S O N S**

1. The Applicant applied to withdraw \$100,000 from his locked-in account.
2. On January 6, 2003, the Superintendent consented to withdrawal of funds totalling \$4,832.40 from his locked-in account, based upon an application dated September 16, 2002, as submitted by the Applicant.
3. The Applicant in this matter requested a hearing in respect to the Superintendent’s Notice of Proposal to Refuse to Consent dated January 6, 2003 for \$95,467.60.
4. Subsection 87(5) of Regulation 909 (the “Regulation”) sets out the amount an Applicant may apply to withdraw under paragraph 2 of subsection 87 (1) of the Regulation.

The owner of the locked-in account may apply for one or both of the following:

- a) consent to withdraw an amount sufficient to pay arrears and bring the debt into good standing;

b) consent to withdraw

(i) a lump sum covering twelve monthly debt payments, or

(ii) twelve monthly installments, each to cover one monthly debt payment.

5. The Applicant submitted detailed information of current assets held in his locked-in account.
6. The Applicant requested an amount to pay off an amount greater than the entire mortgage, which included legal expenses and other expenses.
7. The Applicant submitted information pertaining to a demand for mortgage arrears from the mortgage holder (which is the Applicant's sister) in the amount of three months. Monthly arrears total \$322.16.
8. As stated in Point 4 of this decision, the Act states that the Applicant may apply for the actual arrears and/or twelve monthly debt payments. The debt of three-month arrears and twelve monthly debt payments total \$4832.40.
9. As a result, the application does not meet the requirements of subsection 87 (5) of the Regulation. The Tribunal does not have the authority to direct the Superintendent to allow an application that does not meet the strict requirements of the Regulation. As such, the Superintendent's refusal is affirmed.

## **ORDER**

**The Superintendent's Notice of Proposal to Refuse to Consent, dated January 6, 2003 is affirmed and this application is dismissed.**

Dated at Toronto this 19<sup>th</sup> day of February, 2003.

"K. Ashe"

Kevin G. Ashe

Member, Financial Services Tribunal

