

Ombudsman's Determination

Applicant	Mr N
Scheme	Royal London Group Personal Pension (the Scheme)
Respondent	Mills Property Group (the Employer)

Outcome

1. Mr N's complaint is upheld and, to put matters right, the Employer shall pay £52.07 into Mr N's new scheme with Standard Life. The Employer shall ensure that Mr Y is not financially disadvantaged by its maladministration. So, it shall arrange for any investment loss to be calculated and paid into the Scheme. In Addition, the Employer shall pay Mr N £500 for the significant distress and inconvenience it has caused him.

Complaint summary

2. Mr N has complained that the Employer, despite deducting contributions from his pay, has failed to pay them into the Scheme.
3. Mr N has said that the missing contributions amounted to £52.07.

Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the salient points.
5. In May 2021, Mr N began his employment with the Employer.
6. In November 2021, the Employer failed to pay £52.07 into the Scheme despite making deductions from Mr N's salary.
7. Mr N provided a copy of the payslip that he held for November 2021 which detailed the pension contributions deducted from his pay and the corresponding employer contributions. These deductions amounted to £52.07. A breakdown of the deductions has been set out in the Appendix.
8. In September 2023, Mr N brought his complaint to The Pensions Ombudsman (**TPO**).
9. On 28 December 2023, TPO asked the Employer for its formal response to Mr N's complaint. This request was repeated on 11 January 2024. None of these requests received a response.

10. On 31 January 2024, TPO chased the Employer again. The Employer failed to respond by the deadline.

Adjudicator's Opinion

11. Mr N's complaint was considered by one of our Adjudicators who concluded that further action was required by the Employer as it had failed to remit the contributions that were due to the Scheme. The Adjudicator's findings are summarised below:-
 - The Adjudicator stated that TPO's normal approach, in cases such as these, was to seek agreement from all parties on the facts of the complaint, including the dates and amounts of contributions involved. He said that, as the Employer had not responded to any of TPO's communications, he had to base his Opinion solely on the information provided by Mr N.
 - The Adjudicator said that he had no reason to doubt the information provided by Mr N. So, in the Adjudicator's Opinion, on the balance of probabilities, contributions had been deducted from Mr N's salary, but had not been paid into the Scheme. In addition, the Employer had not paid any of the employer contributions that were due over the same period. As a result of its maladministration, Mr N was not in the financial position he ought to be in.
12. On 8 May 2024, the Employer initially accepted the Adjudicator's Opinion and said that it would pay the outstanding payments to the Scheme.
13. On 13 May 2024, TPO chased the Employer regarding paying the outstanding contributions. No response was received.
14. On 29 May 2024, Mr N contacted TPO and confirmed that the outstanding contributions had still not been paid. Mr N also said that he was told by NEST that he was no longer able to receive payments into the Scheme as it had been switched to a new scheme with Standard Life. Mr N provided instructions he received from NEST on how to make the payment to his account with Standard Life. These instructions were sent to the Employer.
15. On 3 June 2024, TPO chased the Employer again but received no response.
16. The Employer failed to pay the outstanding pension contributions, so the complaint was passed to me consider. I agree with the Adjudicator's Opinion except, given the lack of cooperation with TPO which would have caused Mr N further distress and inconvenience, I will make an award for the significant distress and inconvenience which Mr N has suffered as the monies have still not been transferred.

Ombudsman's decision

17. Mr N has complained that the Employer has not paid all the contributions due to his Scheme account.

18. I find that employee contributions were deducted but held back by the Employer and not paid into the Scheme. The Employer failed to rectify this and resolve Mr N's complaint following the Adjudicator's Opinion.
19. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Mr N to suffer a financial loss. The Employer shall take remedial action to put this right.
20. Mr N is entitled to a distress and inconvenience award in respect of the significant ongoing non-financial injustice which he has suffered. In my view, Mr N's distress and inconvenience was exacerbated by the length of time this matter has taken to resolve and the Employer's failure to properly respond during TPO's investigation into Mr N's complaint.

Directions

21. To put matters right, the Employer shall, within 28 days of the date of this Determination:
 - (i) pay Mr N 500 for the significant distress and inconvenience he has experienced;
 - (ii) pay £52.07 into Mr N's Standard Life account. This figure represents the amount that, according to the figures provided by Mr Y, have been deducted from his pay, but not paid into the Scheme account. It also includes the employer contributions for the relevant period which should also have been paid but have not been paid to date;
 - (iii) establish with Standard Life whether the late payment of contributions has meant that fewer units were purchased in Mr N's Standard Life account than he would have otherwise secured, had the contributions been paid on time; and
 - (iv) pay any reasonable administration fee should the Standard Life administrator charge a fee for carrying out the above calculation.
22. Within 14 days of receiving confirmation from Standard Life of any shortfall in Mr Y's units, pay the cost of purchasing any additional units required to make up the shortfall.

Anthony Arter CBE

Deputy Pensions Ombudsman

23 July 2024

Appendix

Date	Employee contributions	Employer contributions
25/11/21	£28.93	£23.14