

Ombudsman's Determination

Applicant	Mrs G
Scheme	Scottish Widows (the Scheme)
Respondent	Aten Global Ltd (the Employer)

Outcome

1. Mrs G's complaint is upheld and, to put matters right, the Employer shall pay the missing contributions in respect of her pension and make good any shortfall in units. In addition, the Employer shall pay Mrs G £1,000 for the serious distress and inconvenience it caused her.

Complaint summary

2. Mrs G has complained that the Employer, despite deducting contributions from her pay, has failed to pay the contributions into the Scheme.
3. Mrs G has said that the missing contributions amount to £1,242.07.

Background information, including submissions from the parties

4. In October 2018, Mrs G began her employment with the Employer and joined the Scheme.
5. Mrs G has said that the Employer stopped paying into the Scheme in July 2020.
6. Mrs G provided copies of the payslips that she held for the period from July 2020 to May 2021 which detailed the pension contributions deducted from her pay and the corresponding employer contributions. These deductions amounted to £1,242.07. A full breakdown of the deductions has been included in the Appendix.
7. On 25 April 2022, the Pensions Ombudsman's Office (**TPO's Office**) wrote to the Employer to ask for more information in response to Mrs G's complaint. This request was repeated on 18 May 2022. TPO's Office has not received a response to either letter.

Adjudicator's Opinion

8. Mrs G'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 as to the facts of the case, including the dates and amounts of contributions involved. She said that, as the Employer had not responded to any of TPO's communications, she had to base her Opinion solely on the information provided by Mrs G.
 - The Adjudicator said that she had no reason to doubt the information provided by Mrs G. On the balance of probabilities, the Adjudicator was of the view that contributions had been deducted from Mrs G's salary, that 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, Mrs G was not in the financial position she ought to be in.
 - In the Adjudicator's view, Mrs G had suffered significant distress and inconvenience due to the Employer's maladministration. The Adjudicator was of the view that an award of £500 for non-financial injustice was appropriate in the circumstances.
9. The Employer did not respond to the Adjudicator's Opinion and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion, except the level of award for maladministration.

Ombudsman's decision

10. Mrs G has complained that the Employer has not paid all the contributions due to her Scheme account.
11. The available evidence supports the view that employee contributions were deducted but held back by the Employer and not paid into the Scheme. The Employer failed to rectify this and did not engage with either my Office or Mrs G. It has also failed to respond to the Adjudicator's Opinion.
12. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Mrs G to suffer a financial loss. The Employer shall take remedial action to put this right.
13. Mrs G is entitled to a distress and inconvenience award in respect of the serious ongoing non-financial injustice which she has suffered. This was exacerbated by its failure to respond during my Office's investigation into Mrs G's complaint.

Directions

14. To put matters right, the Employer shall, within 28 days of the date of this Determination:
 - (i) pay Mrs G £1,000 for the serious distress and inconvenience she has experienced;
 - (ii) produce a schedule (**the Schedule**) showing the employee contributions deducted from Mrs G's pay in respect of the period of her employment. The Schedule shall also include the corresponding employer contributions that were due to the Scheme; and
 - (iii) forward the Schedule to Mrs G.
15. The Employer shall, within 28 days of receiving a request by Mrs G, provide her with any reasonable additional information, in order for her to be able to check the details in the Schedule.
16. Within 14 days of receiving confirmation from Mrs G that she agrees with the information on the Schedule, the Employer shall:
 - (i) pay the missing contributions to the Scheme;
 - (ii) establish with the Scheme whether the late payment of contributions has meant that fewer units were purchased in Mrs G's Scheme account than she would have otherwise secured, had the contributions been paid on time; and
 - (iii) pay any reasonable administration fee should the Scheme administrator charge a fee for carrying out the above calculation.
17. Within 21 days of receiving confirmation from the Scheme administrator of any shortfall in Mrs G's units, pay the cost of purchasing any additional units required to make up the shortfall.

Anthony Arter
Pensions Ombudsman
02 September 2022

Appendix

Date	Employee contributions	Employer contributions
28/07/2020	£66.67	£62.50
28/08/2020	£66.67	£62.50
28/09/2020	£66.67	£62.50
28/10/2020	£66.67	£62.50
28/11/2020	£66.67	£62.50
28/12/2020	£133.33	£125.00
28/01/2021	£83.33	£62.50
28/02/2021	£20.00	£15.00
28/03/2021	£20.00	£15.00
28/05/2021	£69.75	£52.31
Total unpaid employee contributions	<u>£659.76</u>	
Total unpaid employer contributions		<u>£582.31</u>