

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-117 May 31 1983

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;, Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health and other non-pension benefits coverage for an Employee by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Complainant worked for Employer A up to June 25, 1982, on which date the vacation period began. During the vacation period, the mine where the Complainant had worked was closed. He was offered a job at one of Employer A's other mines after the vacation was over. However, he decided that he would retire and did not return to work for Employer A.

Employer A was a member of an association of coal companies which use the facilities of a preparation company, Employer B, which prepares and sells the coal produced by them.

Employer B signed the National Bituminous Coal Wage Agreement of 1981 (Wage Agreement") for the association, forwarded dues to the United Mine Workers of America, submitted royalties to the Funds, and provided a master insurance program for the association members. In June 1982, Employer B notified Employer A that its coal would no longer be needed and that their affiliation was ended as of July 12, 1982. Employer A was signatory to the Agreement by virtue of its membership in the association up to July 12, 1982. However, Employer A had a market for its coal so it signed the National Bituminous Coal Wage Agreement of 1981, in its own right, on July 20, 1982.

The Complainant filed an Application for Pension, which was received by the UMWA 1974 Pension Plan ("1974 Pension Plan") on September 21, 1982. His application was denied on

January 28, 1983, but is now being reconsidered in light of new information received by the Trustees after the denial.

Benefit coverage was provided for the Complainant through Employer B's insurance program until July 20, 1982, but no coverage has been provided since that time.

Dispute

Is Employer A or Employer B responsible for the provision of benefit coverage for the Complainant?

Positions of Parties

Position of Complainant: The Complainant feels that Employer B should provide him with benefit coverage inasmuch as it provided benefit coverage while he was employed.

Position of Employer A: He will provide the benefit coverage if the Trustees determine that his company is so responsible.

Position of Employer B: The Complainant was never its employee. Employer A was his Employer and provided him with benefit coverage while he was employed and it should provide him with benefit coverage in retirement.

Pertinent Provisions

Article XX, Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1981 which provides:

Section (c) 1974 Plans and Trusts

(3)(i) Each signatory Employer shall establish and -maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), health and other non-pension benefits for its Employees covered by this Agreement as well as pensioners under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer....

Article I. (5) of the Employer's Benefit Plan which provides:

Definitions

(5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of the Plan.

Article II. B (1) of the Employer's Benefit Plan which provides:

B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

(1) Any Pensioner who is not again employed in classified signatory employment subsequent to:

(a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and

(b) June 7, 1981, shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this plan. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I (5) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits, subject to all other provisions of this Plan.

Article III. D of the Employer's Benefit Plan which provides:

D. General Provision

(1) Continuation of coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to the Employee's Date Last Worked	Period of Coverage Continuation from the Date Past Worked
2,000 or more hours	Balance of month plus 12 months
500 or more but less than 2,000 hours	Balance of month plus 6 months
Less than 500 hours	30 days

Discussion

Under Article XX (3)(c)(i) of the 1981 Wage Agreement, each signatory Employer is required to establish and maintain an Employee Benefit Plan for its Employees covered by the Agreement, and for Pensioners whose Last signatory classified employment was with such Employer. Since the Complainant was an Employee of Employer A, a signatory, and his last classified employment was with Employer A, responsibility for Complainant's benefit coverage rests with Employer A.

Opinion of the Trustees

The Trustees are of the opinion that Employer A is responsible for benefit coverage for the Complainant in accordance with the terms of the Benefit Plan established by Employer A pursuant to Article XX (e)(3)(i) of the 1981 Agreement.