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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 02-038 – January 30, 2007

Trustees: Micheal W. Buckner, A. Frank Dunham, Michael H. Holland, and  
Elliot A. Segal.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits under the terms of the Employer Benefit Plan.

### Background Facts

In June 1997, the Complainant was laid off by a signatory employer--not the Respondent. Subsequently, the Complainant was awarded back pay based on two settlement agreements between the Respondent and the UMWa concerning classified employment. The first agreement addressed the period from June 28, 2000, to December 31, 2000. The second settlement agreement addressed the period from August 2002 to October 2002. The Respondent was signatory to the 1998 National Bituminous Coal Wage Agreement from January 1, 1998 to December 31, 2002.

The Complainant applied for pension benefits and was awarded pension credit under the 1974 Pension Plan based on the back pay awards. The Complainant was notified by letter dated May 7, 2004, that he was awarded a special permanent layoff pension under the 1974 Pension Plan effective October 1, 2003. The letter also informed the Complainant that the Respondent was designated as the last signatory employer that had employed him in a classified job. When a miner receiving a special permanent layoff pension attains age 55, he becomes eligible for health benefits coverage from his last signatory Employer. The Complainant attained age 55 on June 12, 2005, and sought health benefits coverage from the Respondent. The Respondent has refused to provide health coverage to the Complainant as a Pensioner.

### Dispute

Is the Respondent required to provide health benefits coverage for the Complainant as a Pensioner when he attained age 55?

### Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner when he attained age 55 because he meets the requirements under the Employer Benefit Plan to receive coverage as a Pensioner.

Position of the Respondent: The Respondent is not required to provide health benefits coverage for the Complainant because of the following reasons: 1) the Complainant never worked for the Respondent; and 2) the Complainant retired from employment with another employer.

### Pertinent Provisions

Article XX Section (c)(3)(i) of the 1998 National Bituminous Coal Wage Agreement states in pertinent part:

(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 and who are not eligible to receive benefits from a plan maintained pursuant to the Coal Act. . . .

\* \* \*

Article I (2), (4) and (5) of the 1998 Employer Benefit Plan provides:

### ARTICLE I DEFINITIONS

The following terms shall have the meanings herein set forth:

- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1998, as amended from time to time and any successor agreement.
- (4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.
- (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, (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 this Plan; or (iii) a special permanent layoff pension under the terms of Article II.E(4) of the 1974 Pension Plan, during any period prior to the person's attainment of age 55. "Pensioner" shall not mean any individual entitled to benefits under section 9711 of the Internal Revenue Code of 1986, as amended by the Coal Industry Retiree Health Benefit Act of 1992.

Article II B. (1) of the 1998 Employer Benefit Plan provides:

#### Article II - Eligibility

The persons eligible to receive health benefits pursuant to Article III are as follows:

#### B. Pensioners

Health benefits 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) December 31, 1997, 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.

#### Discussion

Article I (5)(iii) of the Employer Benefit Plan defines "Pensioner" as any person who is receiving a pension other than "a special permanent layoff pension under the terms of Article II E. (4) of the 1974 Pension Plan, during any period prior to the person's attainment of age 55." Article II B. (1) of the Employer Benefit Plan establishes that an individual who is defined as a "Pensioner" under the Employer Benefit Plan is eligible for health benefits coverage with certain exception not relevant here. The Complainant is receiving a special permanent layoff pension and attained age 55 on June 12, 2005. Therefore, effective June 12, 2005, the Complainant met the definition of "Pensioner" under Article I (5)(iii) and became eligible for health coverage as a Pensioner

under Article II B.

The Respondent was signatory to the 1998 Wage Agreement which provides under Article XX(c)(3)(i) that a signatory Employer is required to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Pensioners whose last signatory classified employment was with such Employer.

The Respondent disagrees with the designation of the Respondent as the Complainant's last signatory employer. An employer's challenge of a pension eligibility decision such as the designation of the pensioner's last signatory employer must be raised in a separate procedure authorized by Article XX (g) of the Wage Agreement and may not be addressed by the Trustees in the ROD process. The Respondent's status was addressed under the aforementioned procedure, and the Respondent's designation as such was confirmed.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective June 12, 2005, consistent with the terms of the Employer Benefit Plan.