
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 07-0009 – October 24, 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

Complainant was laid off from classified signatory work on July 1, 1997 by his Employer, a signatory company other than the Respondent. Complainant was later party to a grievance between Respondent and UMWA Local 2059, UMWA, District 31, involving work that had been contracted out rather than performed by the bargaining unit, which was settled on January 7, 2002. The grievance settlement does not list individual names of the recipients of the monetary award. The UMWA District Office dispersed funds from the settlement to members of the panel and calculated the number of hours that the Complainant was entitled to in compensation for work contracted out between July 1, 2000 and December 30, 2000 that would have provided Complainant with work opportunities.

Complainant was credited with 301 hours of service by virtue of the back pay award and applied for a Special Permanent Layoff Pension in May of 2002. Complainant was sent a letter dated June 1, 2002, informing him that he had been awarded a Special Permanent Layoff Pension, and instructing him to contact his last employer, the Respondent, upon reaching age 55, for any health benefits for which he might be eligible. When a miner receiving a Special permanent Layoff Pension attains age 55, he becomes eligible for health benefits from his last signatory Employer. Respondent has refused to provide health coverage to the Complainant as a Pensioner. Respondent was last signatory to the 1998 NBCWA.

Dispute

Is Respondent required to provide Complainant with health benefits?

Positions of the Parties

Position of the Complainant: Respondent is Complainant's last signatory employer and is responsible for providing health care benefits to Complainant.

Position of the Respondent: Complainant never worked for Respondent. Respondent has not been signatory to any NBCWA since the 1998 Agreement. Respondent has not been a participant or contributor in the ROD Trust. Respondent is not responsible for providing Complainant with health care benefits.

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 (5) of the 1998 Employer Benefit Plan states in pertinent part:

ARTICLE I 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, (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 states:

Article II Eligibility

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 exceptions 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.

Respondent denies making contributions to the ROD Trust, thereby challenging the Trustees' jurisdiction in this ROD. However, Respondent appears on the current ROD Trust Fund list, and contributions were verified with the UMWA-BCOA ROD Trust office.

Although the 1974 Pension Trust has identified the Respondent as the Complainant's last signatory Employer, the Respondent disagrees with its identification as such. Issues regarding pension eligibility, which include designation of last signatory Employer, are issues for the Trustees of the 1974 Pension Trust. These issues are handled 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 last signatory Employer was confirmed.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective April 21, 2007, consistent with the terms of the Employer Benefit Plan.