

OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 6 - August 30, 1979

Board of Trustees: Harrison Combs Sr., 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 Employee's eligibility for continued health and other non-pension benefits from an Employer and hereby render their opinion on the matter.

Background Facts

The Employee born May 1, 1943, worked for the Employer in a classified job, from April 23, 1970 until he was laid off on October 28, 1978. He had worked 2,215 hours during the 24-month period preceding lay off.

He accepted a non-classified job (watchman) with the Employer on February 2, 1979 and quit on April 17, 1979; he was then placed on the panel for re employment in a classified job.

The Employer canceled his health benefits as an Employee when he started to work as a watchman and refused to reinstate health benefits coverage for the Employee after his employment as a watchman terminated.

Dispute

This dispute concerns the Employer's responsibility for providing health benefits coverage for the Employee for the remainder of his original period of continued coverage as a laid off employee, following the period of nonclassified employment with the Employer which occurred after the lay off. Specifically, in this instance, is the Employer responsible for the Employee's coverage from April 18, 1979 to October 31, 1979?

Positions of the Parties

Position of Employee: Employee feels that based on his working over 2000 hours during the 24-month period prior to his last work in a classified job, Employer is responsible for continuing

health benefits coverage for 12 months while he is unemployed. Although the Employee does not claim coverage for the period he worked in a non-classified job, he believes that his eligibility reinstated when he became unemployed and should continue, while unemployed, to the end of the 12-month period following his lay off.

Position of Employer: Employer feels that Employee's eligibility for health benefits ended when he started to work in a non-classified job and could not be reinstated until he again is employed in a classified job for a signatory Employer or retires.

Pertinent Provision of the Employer's Plan

Article III, E(1)(a) which provides that an Employee who ceases work because of lay off is eligible for continued coverage for balance of month plus 12 months.

Article III, E(1)(f) which provides that an Employee's health, vision care, life and accidental death and dismemberment insurance coverage will terminate as of the date the Employee accepts other employment.

Discussion

Following the Employee's lay off on October 28, 1978, eligibility for health benefits would have continued to October 31, 1979, had the Employee remained unemployed. He was clearly not eligible while working in a non-classified job for the Employer during the ten week period from February 2, 1979 to April 18, 1979. Accordingly, the question presented deals with the Employee's status from April 19 to October 31, 1979. Had the Employee returned to classified signatory employment or retired on pension, remaining unemployed, his eligibility would have resumed. Since he remained unemployed following the brief period of non-classified work, the issue centers on whether his eligibility automatically resumes for the remainder of the 12 months period he would have been eligible for had he not accepted the non-classified job.

Under past practices of the Funds, prior to the 1978 Amendments to the plans, a laid off mine worker remained eligible for health benefits for up to one year following his last classified signatory employment if he remained unemployed. This concept is contained in Q&A #266 and #348, neither of which directly address the issue of what happens if an otherwise eligible mine worker loses his eligibility during a period of non-covered employment and subsequently becomes unemployed within the 12 month period following his last work date in covered employment.

A similar issue dealing with the 1978 Amendments was addressed in Q&A H-25, which provided that the eligibility of a laid off Employee terminates on the first day he begins employment outside the coal industry.

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The Trustees are of the opinion that the Employer is responsible for providing health benefits coverage for the Employee, while he is unemployed, during the remainder of his original period of continued eligibility, April 18, 1979 to October 31, 1979.