

OPINION OF TRUSTEES

In Re

Complainant: Employer
Respondent: Employee
ROD Case No: 57 - October 25, 1979

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 Employee's eligibility for Dismemberment benefits from an Employer and hereby render their opinion on the matter.

Background Facts

The Employee sustained an injury on August 3, 1977 when a piece of steel became imbedded in his left eye while he was working in a classified job for the Employer. Medical records covering a series of examinations between date of injury and March 27, 1978 state that the Employee had "hand motion vision" and "sees some light with the eye." The last such examination is recorded as March 27, 1978. The medical records further indicate that on May 22, 1978, the Employee indicated he had "recurrent bleeding associated with pain" and "is bothered somewhat welding or burning." The records state: "I get the impression that the pain is such he wants the eye enucleated."

In June, 1978, the Employee's injured eye was surgically removed and he was later fitted with a prosthesis. He has filed for Dismemberment insurance under the Employer's benefit plan as a result of the loss of his eye and the Employer has requested an opinion as to the Employee's entitlement to these benefits.

Question or Dispute

Is the Employee entitled to the Dismemberment Insurance Benefit of \$6,000 under the Employee's Benefit Plan based on the removal of his left eye after the effective date of the plan, March 27, 1978?

Pertinent Regulation

Article III B(1)(c)(iii) provides in part: "If an Employee shall lose one member due solely to violent, external and accidental means, such Employee shall receive a \$6,000 dismemberment benefit. A member for the purpose of the above is ... total loss of vision of one eye."

Discussion

The principal issue in this case is whether or not the Employee's total loss of vision, as required by the above regulation of the Employers benefit plan, occurred prior to March 27, 1978, the effective date of the plan. If total loss of vision occurred on or after March 27, 1978, the Employee is eligible for Dismemberment benefits; if it occurred before that date, he is not.

A person whose vision is limited to the perception of hand motion or "some" light is severely handicapped but has not suffered total loss of vision. In this instance, total loss of vision in the left eye occurred at the time of its surgical removal, in June 1978, a procedure which was medically indicated to alleviate pain in the injured eye. Since it took place after March 27, 1978, and the Employee was a beneficiary of the Employer's benefit plan, its provisions are applicable.

Opinion of the Trustees

The Trustees are of the opinion that the Employee is eligible for Dismemberment Benefits of \$6,000, payable under the terms of the Employer's Benefit Plan.