

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 93, June 25, 1980

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 for a Pensioner by the last Employer for whom he performed classified work under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Pensioner is presently receiving a pension effective November, 1978, pursuant to the United Mine Workers of America ("UMWA") 1974 Pension Plan ("1974 Plan"). The Employer is a signatory to the National Bituminous Coal Wage Agreement of 1978 ("1978 Wage Agreement"). By letter dated December 28, 1977, the Employer verified that the Pensioner worked for him from August, 1973 to January 7, 1976. The Pensioner retired immediately thereafter.

The Employer has failed to respond to the Pensioner's requests for health and non-pension benefits. Indeed, the Employer has not responded to three letters from the Director of Eligibility Services requesting a copy of the Employer's Benefit Plan and a clarification of the Employer's position.

Dispute

Is the Employer responsible for providing health and other non-pension benefits for the Pensioner under the 1978 Wage Agreement?

Position of the Parties

Position of the Pensioner: The Pensioner is entitled to receive the benefits required by the 1978 Wage Agreement.

Position of Employer: The Employer has not stated his position.

Pertinent Provisions

The 1978 Wage Agreement, Article XX, Section (c)(3) provides:

- (i) Except as provided in (ii) below, effective on June 1, 1978, each signatory Employer shall establish 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 classified employment was with such Employer.
- (ii) In lieu of (i) above, any signatory Employer may elect to implement the above health benefit coverage through a private insurance carrier(s) on the effective date of this Agreement.

Discussion

The Complainant is a 1974 Plan pensioner, whose last employment in a classified job was with the Employer, a signatory to the 1978 Wage Agreement, currently in business. Accordingly, the Employer is responsible for providing health and other non-pension benefits as required under the 1978 Wage Agreement.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for providing health and other non-pension benefits to the Pensioner and his eligible dependents, for the period beginning November 1, 1978, pursuant to the 1978 Wage Agreement, Article XX, Section (c)(3).