
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 151, June 30, 1981

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 disabled Employee by his last Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Employee, whose birth date is May 14, 1930, began working for the Employer on July 15, 1970. During the period from October 24, 1972 to February 13, 1976, he worked for the Employer at Mine "A" and was paid \$56.00 per shift. Mine "A" was shut down and the Employee was placed on the lay-off panel. On March 1, 1976, the Employee was recalled and accepted a transfer to Mine "B", where the Employee stated the Employer promised he would receive the same rate of pay. However, after transferring, he was paid at a rate of \$49.00 per shift. He worked at Mine "B" from March 1 through April 11, 1976. He then quit, stating that he could not afford to drive 30 miles one way to work with a reduction in wages. Separation information from the Employer states that the Employee "voluntarily quit due to distance to work from residence". The Employee was again placed on the lay-off panel at Mine "A".

The Employee applied for State Unemployment Compensation benefits. The reviewing Deputy's decision of June 28, 1976, rules that the Employee had "voluntarily left employment with good cause involving fault on the part of the (E)mmployer" and, therefore, was eligible to receive benefits.

In February 1976, the Employee was notified by the State's Workmen's Compensation Fund that he had been awarded an occupational disease award for pneumoconiosis, effective March 31, 1976.

On September 16, 1976, the Employee was recalled from the panel of employment at Mine "A" as a general laborer. However, the Employee did not report for work because he was

hospitalized, suffering from a heart attack. He was subsequently hospitalized for 13 days in April 1977 when he was treated again for his heart condition.

On August 1, 1977, the Employee was again considered for employment. The Employer's physician examined the Employee and declared he was unable to perform his regular work. He was diagnosed as suffering from "probable coronary heart disease with a history of myocardial infarction and classical angina pectoris; Coal Miner's Pneumoconiosis". The Employee, therefore, did not return to work and states he was advised by the physician to apply for Social Security Disability Benefits.

On January 1, 1978, the Employee was notified that his application for a Social Security Disability Award had been approved, effective October 1, 1977. The Social Security Award Certificate states that the Employee's period of disability began April 28, 1977.

In accordance with Article II A (2) of the-1974 Benefit Plan and administrative regulations of the Funds, the Employee was eligible for continuation of Funds health benefit coverage for the balance of February, 1976 through February 28, 1977, based on the fact that he had worked more than 2,000 hours in the 24 month period prior to February 13, 1976, his last work date.

The Employee later applied for health benefit coverage under the Employer's Plan. Evidence submitted to the Funds in support of the health benefit application established that the Employee had completed more than 20 years of credited service and that he had worked more than 2,000 hours in the 24 months prior to February 13, 1976. The Employee has refused to provide the Employee with health benefit coverage under the Employer's Plan.

Dispute

Is the Employer responsible for the provision of health benefits to the disabled Employee? If so, for what period?

Position of the Parties

Position of the Employee: The Employee has requested an opinion from the Trustees regarding his eligibility for health benefit coverage, based on the facts as presented above.

Position of the Employer: It is the position of the Employer that (1) the Employee quit on April 16, 1976 without good cause and was not subject to recall; (2) his heart condition developed after he quit; (3) the Employee was born on May 14, 1930 and is not of age for retirement nor was he within four years of retirement; and (4) the fact that the Employee was given a physical on August 1, 1977 would indicate he would have been considered a new hire. For these reasons, the Employee is not eligible for health benefit coverage.

Pertinent Provisions

- Article II, A (2) of the Employer's Plan provides:

Benefits under Article III shall be provided to any Employee who is on layoff or disabled from the Employer and had continuing eligibility as of the effective date of the Plan for coverage under the United Mine Workers of America 1974 Benefit Plan (prior Plan) as a laid off or disabled Employee. Coverage for such laid off or disabled Employees shall not continue beyond the date when they would no longer have been eligible for such coverage under the provisions of the prior plan.

- Article II A of the 1974 Benefit Plan provides:

A. Active Miners

Health benefits under Article III shall be provided to any person (1) regularly employed after the effective date in a classified job by an Employer, or (2) unemployed for a period of time to be determined by the Trustees (but in no event for more than one year) immediately following the date of termination of such employment.

- Article II, C (1)(a), (b), (c) of the 1974 Benefit Plan provides:

In addition to disabled miners who are receiving pension benefits and are therefore entitled to receive health benefits under Paragraph B of this Article II, health benefits under Article III shall also be provided to any miner who:

- (1) (a) Has completed 20 years of credited service, including the required number of years of signatory service pursuant to Article IV, C (6) of the 1974 Pension Plan.
- (b) has not attained age 55, and
- (c) became disabled after the effective date and is eligible for Social Security Disability Insurance benefits under Title II of the Social Security Act or its successor.

Discussion

The Employee was eligible for health benefit coverage as an active miner under the 1974 Benefit Plan while working for the Employer until February 13, 1976, at which time he was laid off.

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Under Article II A (2) of the 1974 Benefit Plan, he was eligible for continued coverage as a laid-off employee through February 28, 1977, because he had worked more than 2,000 hours during the 24-month period preceding the date of his layoff. During this period of continued eligibility, he was considered an active Employee. The evidence in the file established that the Employee became disabled in September, 1976 due to a heart attack. Therefore, he became disabled during his continuation of coverage period, while he was an active Employee of the Employer.

Under Article II, C (1) of the 1974 Benefit Plan, an Employee is eligible for health benefits as a disabled employee, if he satisfies the following requirements; (a) has completed 20 years of credited service including the required number of years of signatory service; (b) has not attained age 55; (c) became disabled after December 6, 1974 and is eligible for Social Security Disability Insurance benefits. The Employee clearly satisfied all these requirements. Therefore, he was eligible for health benefit coverage under the 1974 Benefit Plan as a disabled Employee. Moreover, under the terms of the Plan, he remained eligible as long as he continued to satisfy those requirements. Accordingly, he was eligible for coverage under the 1974 Benefit Plan as of the effective date of the Employer's Plan, March 27, 1978.

According to Article II, A (2) of the Employer's Plan, any Employee who is disabled from the Employer and had continuing eligibility as of the effective date of the Employer's Plan for coverage under the 1974 Benefit Plan, shall be eligible for health benefits. Because the Employee was eligible for health benefit coverage under Article II, C (I) of the 1974 Benefit Plan as of the effective date of the Employer's Plan, March 27, 1978, he became eligible for health benefit coverage under the Employer's Plan as of March 27, 1978, subject to the provision of the Plan.

Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for providing health benefits to the disabled Employee and his eligible dependents, effective March 27, 1978, with eligibility continuing, subject to the provisions of the Plan.