

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 293, June 29, 1982

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 ("UMWA") 1950 Benefit Plan and Trust, and under the authority of exemptions 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 benefit coverage for a Pensioner by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Complainant worked for the Employer as a coal truck driver from November 15, 1972 to the date he was laid off, January 10, 1979.

Although the Employer has not responded to our correspondence, information in Funds' files indicates that the Employer paid the Complainant a tonnage rate for the coal that he hauled during the period 1972 to 1975. The Complainant then leased his truck to the Employer and was paid on an hourly basis for his work as a truck driver from 1976 to 1979. The Employer reported classified hours to the Funds for the Complainant. The Complainant was approved for an Age 55 Retirement Pension under the UMWA 1974 Pension Plan, effective May 1, 1979. He is also receiving Federal Black Lung and Social Security Disability benefits.

The Employer has not provided the Complainant with health and other non-pension benefit coverage.

Dispute

Is the Employer responsible to provide health and other non-pension benefit coverage for the Complainant and his dependents?

Positions of Parties

Position of Pensioner: He feels that the Employer should provide benefits for him and his dependents.

Position of Employer: The Employer has not replied to our correspondence.

Pertinent Provisions

Article I. (5) - Definition of Pensioner:

- (5) "Pensioner" shall mean any person who is receiving a pension, other than a deferred vested pension based on less than 20 years of credited service, under the United Mine Workers of America 1974 Pension Plan (or any successor thereto) whose last classified employment was with the Employer.

Article II. B. of the Employer's Benefit Plan provides:

The persons eligible to receive the health benefits pursuant to Article III are as follows:

Pensioners

Health benefits and life insurance under Article III hereof shall also be provided to any Pensioner who is receiving pension benefits under the 1974 Pension Plan, or any successor thereto, provided that (i) the Pensioner is not receiving a pension based in whole or in part on years of services credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, or (ii) that the Pensioner is not receiving a deferred vested pension based on less than 20 years of credited service. Notwithstanding (i) and (ii) immediately above, 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. Health benefits shall not be provided for any month in which the Pensioner earns more than \$200.

Discussion

Under Article II. B. of the Employer's Benefit Plan, the Employer is required to provide benefits coverage to 1974 Pension Plan pensioners whose last classified employment was with the Employer. The Complainant is a 1974 Pension Plan Pensioner and his last classified employment was with the Employer. Therefore, the Employer is responsible for providing health and other non-pension benefit coverage to the Complainant.

Opinion of the Trustees

It is the opinion of the Trustees that the Employer is responsible for providing health and other non-pension benefit coverage for the Complainant and his eligible dependents, such coverage to

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begin effective May 1, 1979 and to continue subject to the earnings limitation set forth in the Employer's Plan.