

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 310, March 24, 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 an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute about three pensioners's eligibility for health and other non-pension benefits under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Complainants in this case are three pensioners, who worked until March 30, June 14, and June 17, 1978, respectively, at a mine operated by the Employer under a lease agreement with the owner of the land. Each Complainant ceased work because of injury or illness. Two of the Complainants began receiving pensions in July, 1978. The other Complainant received sickness and accident benefits until April, 1979, applied for a pension in July, 1979, and reached age 55 in January, 1980. He started receiving a pension in February, 1980.

The Employer paid the Complainants health benefits until June 23, 1978, when it terminated its lease agreement and ceased operations at the mine. On June 24, 1978, another company signed a lease agreement to operate the mine. This company offered employment to all of the employees who had worked at the mine for the Employer. The Employer claims that all its former employees accepted employment with the new company. Two of the Complainants state that they told the new company they would come to work if they recovered from their illnesses, but they never returned to work. The other Complainant states that he did not agree to work for the new company.

The new company provided health benefits to the Complainants from June 24, 1978, until September 10, 1980, when it ceased operations at the mine. The Complainants then applied for benefits to the UMWA 1974 Benefit Plan and Trust ("1974 Benefit Plan"). The 1974 Benefit Plan provided them benefits from September 11, 1980, until October 30, 1981. At that time, information was received that the Employer was still in business and was signatory to the National Bituminous Coal Wage Agreement of 1978. Therefore, the health cards were cancelled, and the Complainants were advised that they should ask the Employer to provide their benefits. The Employer has refused to provide the benefits.

Dispute

Is the Employer responsible to provide health and other non-pension benefits to the Complainants?

Position of the Parties

Complainants' Position: The Complainants claim that the Employer is responsible for providing them with health benefits because their last classified employment was with the Employer.

Employer's Position: The Employer claims that the Complainants' last classified employment was not with the Employer, because they, as well as all its former employees at the mine, accepted employment with the new company. In support thereof, the Employer has submitted payroll records showing payments to the Complainants from the new company after June 24, 1978.

Pertinent Provisions

Article II B. of the Employer's Benefit Plan, in effect at the time of this dispute, provides as follows:

"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 service credited under the terms of Article II C 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 is 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."

Article I(5) of the Employer's Benefit Plan in effect at the time of this dispute provides as follows:

- 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.

Discussion

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Under Article II B. of the Employer's Plan, the Employer is responsible for providing health and other non-pension benefits for UMWA 1974 Pension Plan pensioners whose last classified employment was with the Employer. In this case, the Employer claims that the Complainants' last classified employment was not with the Employer, because they accepted employment with the new company which began operating the mine at which they had previously worked for the Employer. As evidence thereof, the Employer has submitted payroll records showing payments to the Complainants after June 24, 1978, the date the new company began operating the mine. The Complainants state that they never worked for the new company.

Consistent with the Complainants' statements, records of the Complainants' employment histories establish that none of the payments by the new company were for active employment. Consistent therewith, two of the Complainants had applied for pensions before June 24, 1978, the date the new company began operating the mine. They began receiving pensions soon thereafter. The other Complainant received sickness and accident benefits until April, 1979, applied for a pension in July, 1979, and began receiving a pension, effective February, 1980, after he reached age 55.

Based on these facts, the Trustees have determined that the Complainants' last classified employment was with the Employer.

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 Complainants.