

OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 331 - September 20, 1983

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 concerning the payment of a dismemberment benefit to an Employee by the Employer under the terms of the Employer's Benefit Plan, and hereby render their opinion on the matter.

Background Facts

On December 17, 1979, the Complainant sustained a compensable injury while employed in classified work for the Respondent. The Complainant was involved in an automobile accident on December 19, 1980, while recuperating from his mining injury and during his period of continuation of coverage under the Employer's Benefit Plan. He sustained a spinal injury in the automobile accident which resulted in the paralysis of his legs.

Dispute

Is the Respondent responsible for the payment of a dismemberment benefit to the Complainant?

Positions of the Parties

Position of Complainant's Representative: He asked whether or not the Complainant is entitled to a dismemberment benefit as outlined in the 1978 Wage Agreement, based on the loss of use of his leg.

Position of Respondent: The Complainant has not suffered a severance of his feet at or above the ankle. Therefore, he has not suffered a dismemberment under the Employer's Benefit Plan.

Pertinent Provisions

Article XX of the National Bituminous Coal Wage Agreement of 1978 provides:

General Description of the Health and Retirement Benefits

The following is a general description of certain information contained in the UMWA 1950 Pension and Benefit Plans and Trusts, the UMWA 1974 Pension Plan and Trust, and the individual health and benefit plans. The description is intended merely to highlight certain information; it is not a complete statement of all of the provisions of the Plans and Trusts, nor is it intended to be a Summary Plan Description as defined in the Employee Retirement Income Security Act of 1974, and is qualified in its entirety by, and subject to the more detailed information contained in the Plans and Trusts, copies of which are on file and available for inspection at the offices of the United Mine Workers of America Health and Retirement Funds, 2021 K Street, N.W., Washington, D.C. 20006.

Paragraph (8)(c) of the General Description of the Health and Retirement Benefits provides:

(8) Life and Accidental Death and Dismemberment Benefits:

For the first time, effective immediately under the terms of this Agreement, Life and Accidental Death and Dismemberment Insurance benefits will be provided by the Employer for working miners in accordance with the following schedule:

(c) If a working miner should lose two or more members due to violent, external and accidental means, the miner shall receive a \$12,000 dismemberment benefit. If a working miner shall lose one member due solely to violent, external and accidental means, the miner shall receive a \$6,000 dismemberment benefit. A member for the purpose of the above is (i) a hand at or above the wrist, (ii) a foot at or above the ankle or (iii) total loss of vision in one eye.

Article I. (1), (2) and (4) of the Employer's Benefit Plan provides:

Article I - Definitions

The following terms shall have the meanings herein set forth:

(1) "Employer" means (coal company)

(2) "Wage Agreement" means the National Bituminous Coal Agreement of 1978, as amended from time to time and any successor agreement.

(4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.

Article II. C(3) of the Employer's Benefit Plan provides:

Article II - Eligibility

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

C. Disabled Employees

In addition to disabled Pensioners 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 Employee who:

(3) Is receiving Sickness and Accident Benefits pursuant to the Wage Agreement.

Life and accidental death and dismemberment insurance shall also be provided to Employees described in (3) above.

Article III. B.(1)(c) of the Employer's Benefit Plan provides:

Article III - Benefits

B. Life and Accidental Death and Dismemberment Insurance

(1) Active Employees

Life and accidental death and dismemberment insurance will be provided for Employees, as described in Article II, Sections A and C(3), in accordance with the following schedule:

(c) If an Employee shall lose two or more members due to violent, external and accidental means, such Employee shall receive a \$12,000 dismemberment benefit. 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 (i) a hand at or above the wrist, (ii) a foot at or above the ankle or (iii) total loss of vision of one eye.

Discussion

The Complainant sustained a spinal injury in an automobile accident on December 19, 1980, which resulted in the loss of the use of his legs. The Complainant's continuation of benefits coverage expired on December 31, 1980. Therefore, the injury occurred during his period of eligibility for benefits coverage under the Employer's Benefit Plan.

Article III. B (1)(c) of the Employer's Benefit Plan, effective March 27, 1978, provides a dismemberment benefit for the loss of a "foot at or above the ankle." The loss of a member, as defined in the Plan, includes the loss of use of a member. The Complainant has lost two members and is, therefore, entitled to a dismemberment benefit under the Plan.

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Opinion of the Trustees

The Trustees are of the opinion that the Employer is responsible for payment of a dismemberment benefit.