

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 341 - July 10, 1986

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., 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 benefits coverage for a pensioner under the terms of the Employer's Benefit Plan.

Background Facts

The Complainant retired from classified employment with the Respondent on May 2, 1980. On July 14, 1980 his application for a normal retirement pension under the 1974 Pension Plan was approved, effective June 1, 1980. The Complainant has stated that the Respondent did not provide his health benefits coverage after his retirement. The Complainant states that he paid \$179.00 each month to the Respondent for his own health benefits coverage until approximately February of 1984. At that time his premiums were raised to over \$400 per month and he cancelled his coverage. The union representative for the Complainant contends that the Respondent is responsible for providing health benefits for the Complainant. In the alternative, the representative has asked that the 1974 Benefit Plan and Trust provide benefits.

The Respondent was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1978, which expired on March 26, 1981, and did not sign the 1981 Wage Agreement. The Respondent has failed to answer repeated correspondence from the Funds requesting its position in this dispute. Therefore, the Trustees must render a decision based upon the available information on file.

Dispute

Whether the Respondent is responsible for providing health benefits to the Complainant as a pensioner.

Positions of the Parties

Position of Complainant: The Respondent is responsible for the provision of health benefits to the Complainant as a Pensioner.

Position of Respondent: The Respondent has failed to inform the Funds of its position in this dispute.

Pertinent Provisions

Article XX(c)(3)(i) of the National Bituminous Coal Wage Agreement of 1978 provides:

(3)(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. The benefits provided pursuant to such plans shall be guaranteed during the term of this Agreement by each Employer at levels set forth in such plans. Such plans shall also include that each signatory Employer continue to make the death benefit payments in pay status as of December 5, 1977, for deceased Employees and pensioners under the 1974 Pension Plan whose last classified employment was with such Employer, in the same manner and in the same amounts as previously provided for in the 1974 Benefit Plan and Trust. The plans established pursuant to this subsection are incorporated by reference and made a part of this Agreement, and the terms and conditions under which the health and other non-pension benefits will be provided under such plans are as to be set forth in such plans.

Article I(1), (2) and (5) of the Employer Benefit Plan provide:

Article I. Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name) .
- (2) "Wage Agreement" means the National Bituminous Coal Agreement of 1978, as amended from time to time and any successor agreement.
- (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 services, 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:

B. 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 service 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

Article XX(c)(3)(i) of the 1978 Wage Agreement requires a signatory employer to establish and maintain an employer benefit plan to provide health and other non-pension benefits for its pensioners who last classified employment was with such employer. Article XX (c)(3)(i) states further that benefits provided by the Employer pursuant to such plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such plans. Benefit levels to be provided to Employees, Pensioners, and their dependents and survivors are established through collective bargaining and are not subject to unilateral change by either party. Inasmuch as the Complainant's last signatory classified employment was with the Respondent, the Respondent was responsible for providing health benefits coverage for the Complainant at levels set forth by the Employer Benefit Plan during the term of the 1978 Wage Agreement.

The issue now is whether the Respondent was contractually obligated to provide such coverage beyond the expiration of the 1978 Wage Agreement when the Respondent did not sign the 1981 Wage Agreement. The United States Court of Appeals for the Fourth Circuit, in Dist. 29, United Mine Workers of America, et al. v. Royal Coal Co., 768 F. 2d 588, 592 (4th Cir. 1985) and Dist. 17, United Mine Workers of America, et al. v. Allied Corp., etc., 765 F. 2d 412, 417 (4th Cir. 1985 (en banc)), has ruled that an Employer's contractual obligation to provide health benefits to its pensioners does not extend beyond the expiration of the Wage Agreement.

Complainant has also requested in the alternative that coverage be provided under the 1974 Benefit Plan and Trust. Under that Plan, a beneficiary is entitled to coverage only if it is determined that the beneficiary's last Employer is "no longer in business." Such determination is made by the Trustees under established procedures separate from the ROD procedure.

Opinion of the Trustees

The Respondent is responsible for providing health benefits as set forth by the Employer Benefit Plan to the Complainant from June 1, 1980 through the expiration of the 1978 Wage Agreement. Given the controlling language of the applicable Wage Agreement and Plan documents and in light of the Fourth Circuit's recent decisions, the Respondent is not responsible for providing health benefits to the Complainant following the expiration of the 1978 Wage Agreement.