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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 81-69, July 27, 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 concerning the provision of health and other non-pension benefit coverage for the 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, who was born June 2, 1922, worked for Employer A from November 20, 1970 to February 28, 1981, when he retired. He was awarded a UMWA 1974 Pension Plan pension, effective May 1, 1981. His Certificate of Retirement was completed by Employer A.

Employer A had mined coal for Employer B from 1975 to April 1, 1981. Employer B, who is also a signatory Employer, provided coverage to Employer A's Employees and Pensioners. The complainant was provided coverage up to April 1, 1981. Employer A advised his Employees and Pensioners that he could not provide coverage for them because he was out of business. In fact, Employer A is operating other mines which are not located on Employer B's property.

### Dispute

Is Employer A or Employer B responsible for the provision of health and other non-pension benefit coverage for the Complainant and his dependents;

### Positions of Parties

Position of Complainant: He wants to know which Employer is responsible for providing his benefit coverage.

Position of Employer A: This Employer has not given its position on the matter.

#### Pertinent Provisions

Article I. (5) of the Employer's Benefit Plan which provides:

##### Definitions

- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service or, (ii) 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, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.

Article II. B. (1) of the Employer's Benefit Plan which provides:

##### B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows;

- (1) Any Pensioner who is not again employed in classified signatory, employment subsequent to
  - (a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and
  - (b) June 7, 1981, shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan...

#### Discussion

Under Article II. B. (1) of the Employer's Benefit Plan, the Employer is required to provide benefit coverage to Pensioners whose last classified signatory employment was with the Employer. The Complainant is a Pensioner with more than 20 years of service. As such, he satisfies the definition of Pensioner under Article I. (5) of the Employer's Benefit Plan, Moreover, his last classified signatory employment was with Employer A. Therefore, he is eligible for benefit coverage from Employer A.

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Inasmuch as the Complainant had not worked for Employer B, and no evidence has been submitted indicating that Employer B is responsible for the provision of benefit coverage, the coverage must be provided by Employer A.

Opinion of the Trustees

The Trustees are of the opinion that Employer A is responsible for the provision of health and other non-pension benefit coverage for the complainant and his eligible dependents.