
OPINION OF TRUSTEES

In Re

Complainant: Employer B
Respondent: Pensioner
ROD Case No: 81-138, February 22, 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 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 benefit coverage for a Pensioner by his last Employer under the terms of the Employer's Benefit Plan, and hereby render their opinion on the matter.

Background Facts

The Respondent, whose birthdate is July 7, 1926, filed an Application for Pension from the Funds on June 15, 1981, while he was employed by Employer A for whom he worked in classified employment from June 12, 1974, through June 18, 1982.

On June 22, 1982, the mine was taken over by the Complainant, Employer B, and the Respondent continued to work for that Employer through July 16, 1982, when he decided to retire.

The Funds approved the pension effective August 1, 1982, and both the Respondent and Employer B were notified that Employer B was responsible for the provision of benefit coverage.

Dispute

Is Employer B responsible for the provision of benefit coverage for the Respondent?

Position of the Parties

Position of Employer B: The Employer feels that Employer A is responsible for the provision of benefit coverage inasmuch as the Respondent worked only 6 days for Employer B.

Position of Respondent: He claims that he did not retire in order to burden the Employer with the provision of benefit coverage.

Pertinent Provisions

Article XX, Section (c) (3) (i) of the National Bituminous Coal Wage Agreement of 1981 which provides:

Each signatory Employer shall establish and maintain 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 signatory classified employment was with such Employer...

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

"Pensioner" shall mean any person who is receiving 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.

Q & A H-10 (81) which provides:

H-10 (81)

Subject: HEALTH BENEFITS; Employer Responsibility for Health and Other Non-Pension Benefit Coverage of a 1974 Plan Pensioner

Reference: NBCWA XX Section (c)(3); Employer Benefit Plan Art..II B(3)

Question:

- (1) A 1974 Plan pension applicant who had worked for 20 years in a classified job for signatory employer A, was last employed in a classified job for signatory employer B. His period of employment with employer B lasted 3 months.

Which employer is responsible for his health and other non-pension benefit coverage upon approval of his pension?

- (2) Who is responsible for providing health and other non-pension benefit coverage for a 1974 Plan pension applicant who last worked for the UMWA prior to retirement?

- (3) Who is responsible for providing health and other non-pension benefit coverage for an Individual who was a 1974 Plan pensioner but who, after June 7, 1981, was again employed in a classified job with a signatory employer other than the employer who previously provided such coverage?

Answer

- (1) Employer B, his last employer.
- (2) Under the terms of the 1981 NBCWA, each signatory employer is required to provide health and other non-pension benefits for 1974 Plan pensioners whose last classified employment was with such employer. Accordingly, the signatory employer for whom the applicant last worked in a classified job prior to his employment with the UMWA is responsible for providing health and other non-pension benefit coverage upon approval of his pension.
- (3) While employed in a classified job by another signatory employer, after June 7, 1981, the individual would receive health and other non-pension benefit coverage, as an employee, from the employer while so employed. Upon the individual's subsequent retirement, the signatory employer who previously provided benefit coverage will again be responsible for providing coverage only if the individual was credited with less than 3 years of service under the 1974 Pension Plan after June 7, 1981, with any other single employer. If the individual was credited with 3 or more years of service under the 1974 Pension Plan while employed by any other single employer, the last such employer will be responsible for his health and other non-pension benefit coverage upon his subsequent retirement.

Article II Section (B) 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

There is no dispute that the Respondent continued his classified employment with Employer B after that Employer took over the mine previously operated by Employer A. However, Employer B feels that the Respondent was not employed for a sufficient period for it to be responsible for the provision of his benefit coverage during his retirement.

The National Bituminous Coal Wage Agreement of 1981 and the Employer's Benefit Plan provide that benefit coverage for a 1974 Pension Plan pensioner is to be provided by the Employer for whom the Pensioner last performed signatory classified employment. There is no requirement of a minimum period of employment. Therefore, the last signatory Employer for whom a Pensioner performed classified work prior to retirement is responsible for the provision of benefit coverage.

Opinion of the Trustees

The Trustees are of the opinion that Employer B is responsible for the provision of benefit coverage for the Respondent and his dependents.