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## OPINION OF TRUSTEES

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### In Re

Complainant: Employee  
Respondent: Employer  
ROD Case No: 81-252 - March 20, 1904

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustees, Paul R. Dean, Trustees,

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 benefits coverage for an Employee by the Employer under the terms of the Employer's Benefit Plan, and hereby render their opinion on the matter.

### Background Facts

The Complainant worked for the Respondent from April 4, 1982, through September 1982. During this period, he worked a total of 722 hours. His type of work necessitated the use of a sledge hammer to break rocks. Following what appears to be a significant period of treatment by one physician for severe back and arm pain, the Complainant had one consultation with a second physician on July 26, 1982. This doctor decided that the Complainant's type of work was the cause of his pain and advised him to discontinue that type of work. The Complainant reported his condition to one of the coal company owners during the month of July 1982. The Complainant did not return to this physician for treatment. He was subsequently evaluated and treated by a third physician for his condition on August 2, 4 and 5, 1982, That doctor determined that the Complainant had responded to treatment sufficiently and advised him that he could return to work on August 6, 1982. The Complainant returned to work and continued to work until September 3, 1982. He claims to have ceased work due to a disability which continues to prevent him from requiring to work.

The Respondent claims that the Complainant quit his job and that he made the following statement to one of the coal company owners: "I have quit my job and I am not under a doctor's care, and I will not cause you any trouble if you will continue to carry my hospitalization for me," The Respondent provided benefits coverage for the Complainant through September 30, 1982.

On December 6, 1982, the Complainant filed a claim for neuritis, an occupational disease, with the State Industrial Commission. His claim for Workers' Compensation was denied because it was not proven that his condition was the result of his work for the Respondent.

The Trustees' staff have asked the Respondent for a copy of a quit slip signed by the Complainant, if available, and have asked the Complainant for medical evidence to support his claim that he ceased worked on September 3, 1982, because of disability. Neither the Respondent nor the Complainant have provided the requested information.

### Dispute

Is the Respondent responsible for the provision of continuing benefits coverage for the Complainant as a disabled miner:

### Positions of the Parties

Position of Complainant's Representative: The Complainant was under a doctor's care on or before July 26, 1982 through August 5, 1982 and that he ceased working due to disability. He contends, therefore, that he should be provided with 6 months continuation of benefits coverage.

Position of Respondent: The Complainant quit his job and, therefore, is not eligible for any additional benefits coverage,

### Pertinent Provisions

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

#### 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 Wage Agreement of 1981, 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. A. (1) 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:

A. Active Employees

Benefits under Article III shall be provided to any Employee who:

1. is actively at work\* for the Employer on the effective date of the Wage Agreement, or ....

\*"Actively at work" includes an Employee of the Employer who was actively at work on March 26, 1981, and who returns to active work with the Employer within two weeks after the effective date of the Wage Agreement.

Article III,D. 1. (a), (b) and (e) of the Employer's Benefit Plan provides:

Article III - Benefits

D. General Provisions

1. Continuation of Coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to the Employee's Date Last Worked	Period of Coverage Continuation from the Date Last Worked
2,000 or more hours	Balance of month plus 12 months
500 or more but less than 2,000 hours	Balance of month plus 6 month
Less than 500 hours	30 days

(b) Disability

Except as otherwise provided in Article II, Section C, is an Employee Ceases work because of disability, the Employee will be eligible to continue health, life and accidental death and dismemberment insurance coverage

which disabled for the greater of (i) the period of eligibility for Sickness and Accident benefits, or (ii) the period as set forth in the schedule in (a) above,

(b) Quit or Discharge

If an Employee quits or is discharged, health, life and accidental death and dismemberment insurance coverage will terminate as of the date last worked.

Discussion

In this case, the final determination of the Complainant's entitlement to benefits coverage is dependent on the circumstances surrounding his cessation of employment with the Respondent. Disputes arising over the terms and conditions of employment, except those defined in Article XX, are properly resolved through the grievance mechanism defined in Article XXIII. The Trustees recognize that, in this case, these issues were not presented for resolution through the grievance procedures prior to the filing of the ROD Request. Therefore they find it necessary first to address the issue of whether the Employee quit his employment prior to addressing the issue of his entitlement to benefits coverage under the Employer's Benefit Plan. In further ROD Requests, however, the Trustees will remand such cases, where there is a dispute over the terms and conditions of employment as previously described, for resolution through the grievance procedures,

Under Article III D. of the Employer's Benefit Plan, an individual such as the Complainant, who worked 772 hours for the Respondent during the 24-month period prior to his last date worked, would be eligible for continuation of Benefits coverage for the balance of the month in which he last worked, plus 6 months, if he ceased work due to disability, If the Complainant quit, however, his eligibility would cease as of his date last worked.

The Trustees note at the outset that several requests for additional information have been repeatedly ignored by both the Complainant and the Respondent. The Trustees' opinion in this matter is therefore based on the information available in the file at this time.

The only evidence relevant to the Complainant's claim that he ceased work because of disability is a record of his Virginia Industrial Commission hearing conducted January 25, 1983. This record indicates that the Complainant received medical treatment several times during the course of his employment. His first treating physician established over a period of time the presence of a symptomatic medical condition, but was unable to establish a firm diagnosis of this problem, based on diagnostic tests. There is no evidence that the first physician considered the Complainant unable to work. The second physician, during a one-time evaluation on July 25, 1982, assessed the symptom complex presented by the Complainant and attributed his complaints to muscular hypertrophy (resulting from the employee's work activity), in view of an otherwise unremarkable physical exam. This physician advised the Complainant to discontinue his type of work. The third physician appears to have been the Complainant's longest treating physician of record, based on documentable evidence. His serial records establish care and

successful treatment of the Complainant's symptomatic problem. Significantly, this physician advised the Complainant that he could resume his regular work on August 6, 1982.

The Complainant did, in fact, return to work as advised and worked until September 3, 1982. There is no evidence that the Complainant was examined by a physician when he ceased work on September 3, 1982, or that he stopped work at this time on the advice of a physician. There were no objective findings by either physician to support his symptomatology. Finally, a claim for Workers' Compensation filed by the Complainant in December 1982 was denied based on a finding that there was no compelling medical evidence that he suffered a work-related medical condition.

Based on this information, it is the Trustees' opinion that there is insufficient medical evidence that the Complainant ceased work with the Respondent due to a disability. Therefore, the Trustees conclude that the Complainant quit and is not eligible for continuation of coverage beyond the period provided.

Opinion of the Trustees

The Trustees are of the opinion that the Respondent is not responsible for providing benefits coverage for the Complainant beyond that already provided,