

July 29, 1985

(Opinion issued in letter form; name and address deleted)

RE: Opinion of the Trustees
ROD No.: 81-623

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 request for Resolution of Dispute submitted on your behalf concerning payment of a dismemberment benefit for loss of vision.

Under Article III B. (1) (c) of the Employer Benefit Plan, loss of one member due solely to violent, external and accidental means shall qualify an employee to receive a \$12,500.00 dismemberment benefit. A member for purposes 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.

On May 13, 1982, you sustained an injury to your left eye which necessitated the surgical removal of the lens. Tests have been performed by several physicians in an effort to determine whether you have total loss of vision in your left eye; however, no agreement has been reached as to the level of visual acuity in the injured eye. Opinions have ranged from no light perception to 20/50 or 20/60 with the use of a contact lens. You maintain you have no light perception although you have been observed to have good pupillary reflexes with both pupils reacting consensually to direct light.

In order to resolve the issue of whether you have lost the ability to perceive light in your injured left eye, a visually evoked response test was ordered and obtained by your doctor. The result of this test indicates that some vision is present in your left eye, and that your claim of no light perception is not substantiated by this test.

Although you have a recognized visual impairment in your injured eye, it has been determined that you in fact have the ability to perceive light in that eye. Because you have not lost total vision in the left eye, your Employer is not responsible for payment of a dismemberment benefit.

Sincerely,

Joseph Connors, Sr., Chairman

Paul R. Dean, Trustee

William B. Jordan, Trustee

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William Miller, Trustee

Donald Pierce, Jr., Trustee