
OPINION OF TRUSTEES

In Re

Complainant: Employee
Respondent: Employer
ROD Case No: 81-652 - April 29, 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 ("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 benefits coverage for a Pensioner under the terms of the Employer Benefit Plan.

Background Facts

The Complainant is a 1974 Pension Plan "Age 55" pensioner with 33 1/4 years of credited service. His last employment was with the Respondent, a signatory Employer, for which the Complainant worked a total of 119.5 hours during the period from October 3, 1983 through January 5, 1984. During this period of employment, the Complainant was assigned to a reclamation project being performed by a non-signatory Employer hired to complete the job started by a signatory company which had filed for bankruptcy. Under this arrangement, the non-signatory company agreed to subcontract the reclamation work to a signatory company using union labor from the bankrupt company's panel. The Respondent is the signatory subcontractor. The Employees were paid by the Respondent for the work performed.

The Respondent has claimed that, under the terms of an agreement between the non-signatory reclamation company and officials of the local union, all appropriate remittances were to be made to the Funds on behalf of the Complainant, but he was not to be provided with health benefits coverage. The union officials have neither confirmed nor denied this arrangement. The Complainant does not appear to have been a party to any such agreement.

On January 5, 1984, the Complainant retired. On June 21, 1984 he applied for a 1974 Plan pension which was approved effective June 1, 1984. He was advised to contact his last signatory Employer regarding health benefits coverage. The Respondent denied that it was responsible for

Complainant's health benefits coverage because the Complainant was a short-term Employee hired with agreement from local union officials that he would not receive a health card.

The Complainant has asked that the Respondent provide him with benefits coverage as his last signatory Employer.

Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant and his eligible dependents?

Position of Parties

Position of the Complainant: The Respondent is responsible for the provision of health benefits coverage for the Complainant and his eligible dependents as the Respondent was the last signatory Employer for whom the Complainant performed classified work prior to his retirement.

Position of the Respondent: The Respondent is not responsible for the provision of health benefits coverage for the Complainant and his eligible dependents because the Complainant was hired as a short-term Employee under a special agreement with officials of UMWA District #17 that he would not receive a health card.

Pertinent Provisions

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 (coal company).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1981, as amended from time to time and any successor agreement.
- (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 & 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) (a) and (b) of the Employer Benefit Plan provide:

Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

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. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I (5) of this Plan, 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.

Discussion

Under Article II B. (1) of the Employer Benefit Plan, health and other non-pension benefits are provided by the Pensioner's last signatory Employer for Pensioners, other than those receiving a deferred vested pension based upon less than 20 years of credited service under the UMWA 1974 Pension Plan. Inasmuch as the Complainant is receiving a 1974 Pension Plan Age 55 service pension, the Complainant satisfies the definition of Pensioner as set forth in Article I (5) of the Employer Benefit Plan. Accordingly, the Complainant is eligible under the Employer Benefit Plan to receive health benefits coverage to be provided by his last signatory Employer.

The Respondent has denied responsibility for the provision of health benefits coverage for the Complainant and his eligible dependents stating that the Complainant was hired as a short-term Employee under a special agreement between local union officials and a non-signatory contractor that he would not receive a health card. The Respondent also states that the

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Complainant completed only 119.5 hours of classified service for the Respondent prior to his retirement. Under the facts as stated by the Respondent, the purported agreement between the non-signatory contractor and union officials would not affect the obligations of the Respondent to the Complainant. In any event, the issue of an Employer's ability to impose length of service requirements as a condition on the provision of health benefits coverage has previously been addressed by the Trustees in ROD 81-611 (enclosed herein). In their decision, the Trustees concluded that the Employer Benefit Plan "places no limitations on length of service with an Employer prior to a Pensioner's date of initial retirement with respect to an Employer's obligation to provide benefits..."

Consequently, the Trustees conclude that the Respondent, as the Complainant's last signatory Employer, is responsible for the provision of health benefits coverage for the Complainant as a Pensioner pursuant to Article II B (1) of the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is responsible for the provision of health benefits coverage for the Complainant and his eligible dependents.