

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 81-698 - January 28, 1987

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, who was born on April 13, 1930, last worked in classified coal industry service for the Respondent on November 11, 1982, when he was laid off. Funds' records indicate that the Complainant worked 1,686 hours for the Respondent in the 24-month period prior to his layoff.

On April 18, 1983, while still on layoff and receiving continued benefits coverage from the Respondent, the Complainant was examined by a physician and found to be disabled as a result of pneumoconiosis. He was subsequently awarded Social Security Disability Insurance benefits, effective May 1983, when he was 53 years old. Given these facts, and on the basis of his 26 years of credited signatory coal industry service, the Respondent continued to provide health benefits coverage for the Complainant as a disabled employee. On November 15, 1984, the Respondent notified the Complainant that as of December 1, 1984, his health benefits coverage would be discontinued.

On December 2, 1985, the Complainant was awarded a Deferred Vested Pension Special under the UMWA 1974 Pension Plan, effective May 1, 1985. He was advised to contact his last signatory employer, the Respondent, regarding his eligibility for health benefits coverage. The Complainant has indicated that the Respondent has ceased operations. The Complainant asks who is responsible for providing his health benefits coverage beyond December 1, 1984, when his benefits were terminated.

The Respondent was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1981, which expired on September 30, 1984. The Respondent did not sign the 1984 Wage Agreement. The Respondent has failed to reply to repeated correspondence from the Funds regarding its position in this dispute.

Dispute

Whether the Respondent is responsible for providing health benefits to the Complainant following the expiration of the 1981 Wage Agreement.

Positions of the Parties

Position of the Complainant: The Complainant asks whether the Respondent is responsible for the provision of his health benefits coverage as a disabled Employee and Pensioner beyond December 1, 1984, the date his benefits were terminated.

Position of the Respondent: The Respondent has not provided its position in this dispute.

Pertinent Provisions

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

(3)(i) 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. The benefits provided by the Employer to its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans. Such plans shall also include that each signatory Employer continue to make the death benefit payments in pay status as of December 5, 1977, for deceased Employees and pensioners under the 1974 Pension Plan whose last signatory classified employment was with such Employer, in the same manner and in the same amounts as previously provided for in the 1974 Benefit Plan and Trust. The plans established pursuant to this subsection are incorporated by reference and made a part of this Agreement, and the terms and conditions under which the health and other non-pension benefits will be provided under such plans are as to be set forth in such plans.

Article I (1), (2), (4) and (5) of the Employer Benefit Plan provide:

Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name).
- (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.
- (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) and C. (1) of the Employer Benefit Plan provide in pertinent part:

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.

C. Disabled Employees

In addition to disabled Pensioners who are receiving pension benefits and are therefore entitled to receive health benefits under paragraph B of this Article II, health benefits under Article III shall also be provided to any Employee who:

1. (a) Has completed 20 years of credited service, including the required number of years of signatory service pursuant to Article IV C(6) of the 1974 Pension Plan or any corresponding paragraph of any successor thereto, and
- (b) has not attained age 55, and
- (c) became disabled after December 6, 1974 while in classified employment with the Employer, and
- (d) is eligible for Social Security Disability Insurance Benefits under Title II of the Social Security Act or its successor;

Discussion

Article XX (c)(3)(i) of the 1981 Wage Agreement requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees, as well as pensioners whose last signatory classified employment was with such employer. The Wage Agreement stipulates that such benefits shall be guaranteed during the term of the Wage Agreement.

The issue here is whether the Respondent is contractually obligated to provide health and other non-pension benefits beyond the expiration of the 1981 Wage Agreement when the Respondent did not sign the 1984 Wage Agreement. The United States Court of Appeals for the Fourth Circuit, in Dist. 29, United Mine Workers of America, et. al. v. Royal Coal Co., 768 F. 2d 588, 592 (4th Cir. 1985) and Dist. 17, United Mine Workers of America, et. al. v. Allied Corp., etc., 765 F. 2d 412, 417 (4th Cir. 1985) (*en banc*), has ruled that an Employer's contractual obligation to provide health benefits to its employees and pensioners does not extend beyond the expiration of the Wage Agreement.

The Complainant has also asked in the alternative whether coverage might be provided under the 1974 Benefit Plan and Trust. Under that Plan, a beneficiary is entitled to coverage only if it is determined that the beneficiary's last Employer is "no longer in business." Such determination is made by the Trustees under established procedures separate from the ROD procedure.

Opinion of the Trustees

Under the controlling language of the applicable Wage Agreement and Plan documents and in light of the Fourth Circuit's recent decisions, the Respondent is not responsible for providing health benefits to the Complainant following the expiration of the 1981 Wage Agreement.