

OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-134 - October 28, 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 last worked for Dunkard Creek Coal Co., Inc. on June 19, 1983, as a classified employee. He did not subsequently return to work for a signatory employer. Dunkard Creek was forced to cease operations by the Pennsylvania Department of Environmental Resources shortly thereafter and did not sign the 1984 Wage Agreement, Dunkard Creek was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1981, which expired on September 30, 1984.

Sometime after October 1984, Dunkard Creek sold substantially all of its assets to Energy Supply, Inc. On November 17, 1984, Energy Supply and the UMWA entered into a Letter of Agreement wherein both parties agreed to be bound by and to comply fully with the terms and conditions of the 1984 Bituminous Coal Wage Agreement. Energy Supply also agreed to accept Dunkard Creek's seniority list as it existed at the time of the agreement. The final provision of the Letter of Agreement states that "...the Employer, signatory hereto, accepts the full responsibility of continuing the health benefits which had been provided through the insurance carrier of the Dunkard Creek Coal Company, Inc., to its retired employees receiving pension benefits under the 1974 Pension Plan."

The Complainant began receiving a 1974 Plan deferred vested pension based on 20 years of credited service, effective March 1, 1985. The Complainant seeks health benefits coverage from Energy Supply, Inc., as the "successor" company to his last signatory employer, Dunkard Creek Coal Co. Energy Supply, the Respondent, has refused to provide the Complainant with health benefits coverage. The Respondent states that it is not the "successor" company to Dunkard Creek. Furthermore, the Respondent states that the intent of its Letter of Agreement with the

UMWA was to accept the responsibility of providing health benefits coverage for the existing retirees of Dunkard Creek as of the date of the letter.

Dispute

Is the Respondent responsible for the provision of health benefits coverage for the Complainant?

Position of the Parties

Position of the Complainant: The Respondent is responsible for the provision of health benefits coverage for the Complainant, inasmuch as the Complainant is a UMWA 1974 Pension Plan pensioner and the Respondent is the "successor" company to the last signatory Employer for which the Complainant performed classified work.

Position of the Respondent: The Respondent is not responsible for the provision of health benefits coverage for the Complainant because the Respondent is not the successor company to the last Employer for which the Complainant worked. Furthermore, by virtue of the Letter of Agreement, the Respondent intended only to accept the responsibility of continuing health benefits for the three existing retirees from Dunkard Creek Coal on the date of the letter. The Complainant was not an insured pensioner of Dunkard Creek at that time and was thus not included.

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 (name of Coal Company).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1984, 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 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) of the Employer Benefit Plan provides:

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) October 1, 1984, 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

The Complainant last worked for Dunkard Creek on June 19, 1983 and became a 1974 Pension Plan pensioner effective March 1, 1985.

Energy Supply entered into a Letter of Agreement with the UMWA on November 17, 1984 (copy enclosed). The Complainant's entitlement to health benefits from Energy Supply rests solely upon the provisions of the Letter of Agreement, particularly the fifth and final paragraph which provides:

"Finally, the Employer, signatory hereto, accepts the full responsibility of continuing the health care benefits which had been provided through the insurance carrier of the Dunkard Creek Coal Company, Inc. to its retired employees receiving pension benefits under the 1974 Pension Plan."

This provision clearly establishes an obligation on the part of Energy Supply to pay health benefits to Dunkard Creek's retired employees, but it does not specify the date upon which the

covered retirees shall be identified. In the absence of such a date, the Trustees examined the language of the Letter of Agreement and find that the clause "which had been provided through the insurance carrier of Dunkard Creek Coal Company, Inc." follows "health care benefits" and is concluded with a comma. This indicates that the clause modifies the term "health care benefits" only and does not purport to delimit the class of eligible beneficiaries. It is the last two lines of the paragraph that identify the class of individuals entitled to receive the benefits: "[Dunkard Creek's] retired employees receiving pension benefits under the 1974 Pension Plan." Had the parties intended the opposite result on so significant a matter, that is, drawing a sharp line of demarcation dividing retirees between those entitled to the health coverage and those not so entitled, surely they would have used unequivocal language to specify that result.

As a Dunkard Creek retiree receiving a 1974 Plan pension, the Complainant is entitled to health benefits from Energy Supply.

Opinion of Trustees

The Respondent, Energy Supply, Inc., is responsible for the provision of health benefits coverage for the Complainant and his eligible dependents effective March 1, 1985.