
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 84-333 - February 6, 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 October 25, 1925, last worked in a classified position for the Respondent on June 14, 1983, his last claimed classified signatory employment in the coal industry.

On September 25, 1986, the Complainant was notified by letter that he was eligible to receive an Age 55 retirement pension under the UMWA 1974 Pension Plan effective June 1, 1986. The Complainant was also advised to contact his last signatory employer, the Respondent, regarding the provision of health benefits coverage. The Respondent received a copy of the letter.

The Respondent has denied responsibility for the provision of health benefits coverage stating that it was not the Complainant's last Employer. The Respondent claims that the Complainant worked for T&C Trucking Company after he ceased working for the Respondent and that all T&C Employees were UMWA members.

Inquiry by Funds' staff disclosed that T&C Trucking Company was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1978, which expired on March 27, 1981, but that T&C has not signed any subsequent Coal Wage Agreement, and has not operated since 1980.

The Complainant has stated that he never worked for a T&C Trucking Company. He has stated that he did operate a truck for a period of one month in May or June 1984, as an independent contractor for T&T Trucking Company of Wolf Pen, West Virginia. Funds' records indicate that that company was signatory to the 1981 Wage Agreement as a "self-employed" company, and

that the owner was the sole Employee. A company statement in the Complainant's pension file indicates that the Complainant was an independent contractor for T&T Trucking, and not an Employee.

The representative for the Complainant asks who is responsible for the provision of health benefits coverage for the Complainant.

Dispute

Whether the Respondent is responsible for the provision of health benefits coverage for the Complainant, a UMWA 1974 Pension Plan pensioner, as the last signatory Employer for which he performed classified work.

Positions 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 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 last Employer for which the Complainant worked.

Pertinent Provisions

Article XX (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1984 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.

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

Under Article II B. of the Employer Benefit Plan, the Employer is responsible for the provision of health benefits coverage for certain pensioners. A "Pensioner" is defined in Article I (5) of the Plan as a person receiving a Pension under the 1974 Pension Plan whose last classified signatory employment was with the Employer.

Although the Respondent in the instant case claims that the Complainant worked for T&C Trucking Company subsequent to his retirement from the Respondent on June 14, 1983, the

Complainant has denied such employment. Moreover, even if the Complainant had been employed by that company, the Funds has determined that T&C Trucking Company was not signatory to a Coal Wage Agreement beyond March 27, 1981. Therefore, T&C Trucking Company could not be considered the last signatory Employer for which the Complainant performed classified work.

The Complainant has acknowledged that, subsequent to his retirement from the Respondent, his only other employment was as an independent contractor for T&T Trucking Company of Wolf Pen, West Virginia. Inasmuch as the Complainant worked as an independent contractor, he is considered to have been self-employed and any duties the Complainant performed in the course of such employment may not be considered "classified work for a signatory Employer." Accordingly, the Respondent is the last signatory Employer for which the Complainant performed classified work.

Inasmuch as the Complainant last performed classified signatory work for the Respondent and is receiving an Age 55 retirement pension from the 1974 Pension Plan, he is a pensioner within the meaning of Article II. B., and the Respondent is responsible for his health benefits coverage effective June 1, 1986.

Opinion of Trustees

The Respondent is responsible for the provision of health benefits coverage for the Complainant and his eligible dependents effective June 1, 1986.