

OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-377 - November 11, 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 was working in a classified position for One A Coal Company, Inc., the Respondent, on July 13, 1983, when he sustained a back injury. The Respondent is signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1984. The Complainant attempted to return to work on several occasions but was unable to continue working. The Complainant was subsequently awarded a 1974 Pension Plan Minimum Disability pension, retroactive to August 1, 1983. The Complainant was advised to contact his last signatory employer, the Respondent, regarding his eligibility for health benefits coverage. The Respondent was sent a copy of this letter.

The Respondent has refused to provide health benefits coverage for the Complainant. The representative for the Respondent has stated that the Respondent is out of business with no prospect of resuming operations. The Respondent's representative has suggested that the Complainant's health benefits coverage should be provided under the 1974 Benefit Plan and Trust.

The representative for the Complainant has stated that after One A Coal Company worked out its mine and ceased operations, the owner formed a new corporation, Red Bud Mining Company, Inc., which began operating a mine on another property. Red Bud Mining Company became signatory to the 1984 Wage Agreement on October 22, 1986. The representative for the Complainant states that Red Bud Mining Company employs the same employees as One A Coal Company and is probably using some of the same equipment. The Complainant's representative has indicated that Red Bud Mining refused to provide health benefits coverage for the Complainant.

A representative for Red Bud Mining Company has stated that the Complainant was never employed with that company, and therefore, it is not responsible for providing his health benefits coverage as a Pensioner.

### Dispute

Whether One A Coal Company (the Respondent) or Red Bud Mining Company is responsible for providing health benefits coverage for the Complainant.

### Positions of the Parties

Position of the Complainant: The Complainant asks whether One A Coal Company or Red Bud mining Company is responsible for providing his health benefits coverage as a Pensioner under the 1974 Pension Plan.

Position of the Respondent: The representative for the Respondent states that the Respondent is out of business and suggests that the Complainant's health benefits coverage should be provided under the 1974 Benefit Plan and Trust.

A representative of Red Bud Mining Company has stated that the Complainant was never employed with that company, and therefore, it is not responsible for providing health benefits coverage for the Complainant.

### 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. 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) 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 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 1(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

Article XX (c)(3)(i) of the 1984 Wage Agreement requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Pensioners whose last classified employment was with such Employer. The Wage Agreement stipulates that the benefits provided pursuant to such Plan shall be guaranteed during the term of the Agreement. Inasmuch as the Complainant is a Pensioner whose last classified employment was with the Respondent (One A Coal Company), the Respondent is responsible for providing health benefits coverage for the Complainant as a Pensioner, effective August 1, 1983.

Because the Respondent is no longer operating and has refused to provide such coverage, the representative for the Complainant has asked whether Red Bud Mining Company might be responsible for providing the Complainant's health benefits coverage. Although Red Bud Mining is reportedly owned by the same individual and has used the same employees and possibly the same equipment, there is no evidence that Red Bud Mining expressly assumed the health benefit obligations of One A Coal Company. In addition, there is no evidence of an arbitration or court decision that Red Bud Mining is bound by the health benefits provisions of One A Coal's contract with the UMWA. Accordingly, the Trustees have no basis on which to find Red Bud Mining responsible for providing health benefits coverage for the Complainant.

The Respondent has suggested that health benefits for the Complainant should be provided under the 1974 Benefit Plan and Trust. Eligibility for coverage under the 1974 Benefit Plan and Trust is determined by the Trustees under established procedures separate from the ROD procedure.

#### Opinion of the Trustees

The Respondent, One A Coal Company, is responsible for providing health benefits coverage for the Complainant as a Pensioner, effective August 1, 1983.