
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 84-403 - June 18, 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 and other non-pension benefits for a laid-off Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was an active Employee of the Respondent from April 1984 through December 31, 1985, when he was laid off. During the 24-month period prior to December 31, 1985 the Complainant worked over 2,000 hours for the Respondent. The Respondent provided the Complainant with continued health benefits coverage through December 31, 1985, when all health benefits coverage was terminated.

On or about June 13, 1985, the Complainant filed a grievance against the Respondent, claiming that the Respondent had violated Article IA, Section (c) of the National Bituminous Coal Wage Agreement of 1984 by permitting one of its foremen to perform classified work. The Complainant asked to be made whole by the Respondent for all lost wages and benefits. In a decision dated November 14, 1986, an arbitrator determined that the work performed by the foreman from May 31, 1986 through June 6, 1985, constituted classified work and that the Complainant was the damaged party. The arbitrator sustained the Complainant's grievance and ordered the Respondent to pay the Complainant for the work performed by the foreman from May 31, 1985 through June 5, 1985.

During the 24-month period prior to June 6, 1985, the Complainant worked over 2000 hours for the Respondent.

The Complainant's representative contends that the hours for which the Complainant was awarded back pay should be considered hours worked for continuation of coverage purposes and that the Complainant is entitled to continued health, life and accidental death and dismemberment insurance coverage from the last day for which he was awarded back pay, June 6, 1985. The Complainant's representative states that inasmuch as the Complainant worked over

2000 hours for the Respondent prior to June 5, 1985, he is entitled to continued benefits coverage through June 30, 1987.

The Respondent contends that the arbitration decision established only that the Complainant was entitled to back pay. The Respondent states that the arbitration decision did not establish that the Complainant should have been recalled or that the Complainant was entitled to health benefits as a result of the violation of Article IA, Section (c). The Respondent contends that inasmuch as the Complainant did not work from May 31, 1985 through June 5, 1986, he is not entitled to continued health benefits coverage based on the hours for which he was awarded back pay.

Dispute

Whether the hours for which the Complainant was awarded back pay may be treated as hours worked for continuation of coverage eligibility determination purposes.

Positions of the Parties

Position of the Complainant: The Respondent is responsible for providing the Complainant with continued benefits coverage through June 30, 1987 based on the hours for which he was awarded back pay.

Position of the Respondent: The Complainant is not entitled to continued health benefits coverage based on the hours for which he was awarded back pay.

Pertinent Provisions

Article I (1), (2) and (4) 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 Usage Agreement of 1984, 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.

Article II A. (1) and (4) of the Employer Benefit Plan provide:

Article II - Eligibility

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

- A. Active Employees
Benefits under Article III shall be provided to any Employee who:
- (1) is actively at work* for the Employer on the effective date of the Wage Agreement; or
 - (4) A new Employee will be eligible for health benefits from the first day worked with the Employer.

Article III D. (1) (a) of the Employer Benefit Plan provides:

Article III - Benefits

D. General Provisions

(1) Continuation of Coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

<u>Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to the Employee's Date Last Worked</u>	<u>Period of Coverage Continuation from the Date Last Worked</u>
2,000 or more hours	Balance of month plus 12 months
500 or more but less than 2,000 hours	Balance of month plus 6 months
Less than 500 hours	30 days

* Actively at work includes an Employee of the Employer who was actively at work on September 30, 1984, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

Discussion

Article II A. of the Employer Benefit Plan requires the Employer to provide health and other non-pension benefits coverage for active Employees. In addition, Article III D. (I)(a) provides for continued benefits coverage for an Employee who ceases work because of layoff. Under the provisions of Article III D. (1)(a), an Employee's eligibility for continuation of coverage is based on the total number of hours worked for the Employer during the 24-month period prior to his last date worked.

In Resolution of Dispute 81-422, a copy of which is attached, the Trustees previously determined that back pay awards are to be treated as hours worked and credited as time spent in the performance of classified duties for benefit eligibility determination purposes. Inasmuch as the arbitrator's decision ordered the Respondent to pay the Complainant for work performed by the foreman from May 31, 1986 through June 6, 1985, the Complainant must be considered an active Employee of the Respondent from May 31, 1986 through June 6, 1985, and a laid-off Employee of the Respondent thereafter. Under Article III D. (I)(a), the Complainant is therefore entitled to continued benefits coverage through June 30, 1987, based on the hours worked for the Respondent during the 24-month period prior to June 5, 1985.

Opinion of the Trustees

The Respondent is responsible for providing the Complainant with continued benefits coverage from June 6, 1985 through June 30, 1987.