
OPINION OF TRUSTEES

In Re

Complainant: Laid-off Employee
Respondent: Employer
ROD Case No: 84-505 - February 9, 1988

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 benefits coverage for a laid-off Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant worked for the Respondent in a classified position until he was laid off on May 11, 1987. Funds' records indicate that the Complainant worked over 2,000 hours for the Respondent in the 24-month period prior to his lay off. Information received by the Funds indicates that the Complainant's health benefits coverage was terminated effective June 1, 1987 because the Respondent failed to pay its insurance premium. The Complainant contends that he is entitled to continued benefits coverage as a laid-off Employee beyond June 1, 1987. The Complainant states that he accepted other employment on November 30, 1987.

The representative for the Respondent states that the Respondent is no longer in business, that it ceased operations on May 11, 1987, and has no plans to resume operations. He states that the Respondent is financially unable to provide continued benefits coverage for the Complainant.

The representative for the Respondent has indicated that the Respondent operated as a contractor under a lease agreement with Wheelwright Mining, Inc. The Respondent contends that, under the terms of its contractual agreement with Wheelwright Mining, the premiums for the Respondent's employees' health benefits coverage were to be paid by Wheelwright and, therefore, Wheelwright was responsible for providing coverage for the Complainant.

The Respondent's representative further contends that Jan-Nan-Mer Coal, Inc. is a successor to the Respondent and is therefore essentially under the same obligations. Information provided to the Funds indicates that Jan-Nan-Mer Coal purchased assets of the Respondent and is planning to reopen the mine formerly operated by the Respondent. Jan-Nan-Mer signed the National

Bituminous Coal Wage Agreement ("Wage Agreement") of 1984 on December 17, 1986. At that time, a Memorandum of Understanding was executed wherein Jan-Nan-Mer was granted an exemption and waiver of certain royalty payments through January 31, 1988, and wherein it was agreed that all other provisions of the 1984 Wage Agreement would remain in effect.

The Respondent's representative contends that either Wheelwright Mining or Jan-Nan-Mer is responsible for providing continued health benefits coverage for the Complainant.

Dispute

Whether the Respondent is responsible for providing continued health benefits coverage for the Complainant as a laid-off Employee.

Positions of the Parties

Position of the Complainant: The Complainant asks whether the Respondent is responsible for providing his health benefits coverage as a laid-off Employee.

Position of the Respondent: The Respondent has ceased operations and is financially unable to provide continued health benefits coverage for the Complainant. Furthermore, the responsibility for providing such coverage now lies with Wheelwright Mining or Jan-Nan-Mer Coal.

Pertinent Provisions

Article XX (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1984 provides in pertinent part:

(c) 1974 Plans and Trusts

(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 (4) 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.
- (4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.

Article III D. (1) (a) and (f) of the Employer Benefit Plan provide in pertinent part:

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:

Number of Hours Worked for
the Employer in the 24
Consecutive Calendar Month
Period Immediately Prior to
the Employee's Date
Last Worked

Period of Coverage
Continuation from the
Date Last Worked

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

(f) Other Employment

Notwithstanding the foregoing, in the event an Employee accepts employment during a period of continued coverage under paragraph (a), health, life and accidental death and dismemberment insurance coverage will terminate as of the date of such employment.....

Discussion

Article XX (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1984 requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan. Although the Respondent contends that a contractual agreement between it and Wheelwright Mining, Inc., assigns liability for its Employees' health benefits coverage to Wheelwright Mining, such contract does not relieve the Respondent of its primary obligation to provide health benefits coverage to its Employees under the Wage Agreement.

Article III D. (1)(a) provides continued health benefits coverage for a laid-off Employee for a period based upon the number of hours worked by the Employee for the Employer during the 24-month period immediately prior to the date last worked. Article III D. (1)(f) stipulates that such period of continued benefits coverage will terminate as of the date a laid-off Employee accepts other employment. Inasmuch as the Complainant worked over 2,000 hours for the Respondent during the 24-month period prior to May 11, 1987, he is eligible for continued health benefits coverage from May 11, 1987 until November 30, 1987, when he accepted other employment, consistent with Article III D. of the Employer Benefit Plan.

The Respondent has indicated that Jan-Nan-Mer Coal is responsible for providing the Complainant's health benefits coverage as a successor to the Respondent. Although the 1984 Wage Agreement and a Memorandum of Understanding were signed by Jan-Nan-Mer Coal and the UMWA, there is no indication that Jan-Nan-Mer Coal expressly agreed to assume the health benefits liabilities of the Respondent. In addition, there is no evidence of any arbitration or court decision holding that Jan-Nan-Mer Coal is responsible for providing health benefits coverage for the Respondent's laid-off Employees. Accordingly, the Trustees have no basis on which to find Jan-Nan-Mer Coal responsible for providing health benefits coverage for the Complainant. Therefore, the Respondent is responsible for providing continued health benefits coverage for the Complainant consistent with the terms of Article III D. of the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is responsible for providing continued health benefits coverage for the Complainant as a laid-off Employee from May 11, 1987 until November 30, 1987, consistent with the terms of Article III. D. of the Employer Benefit Plan.