

OPINION OF TRUSTEES

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In Re

Complainants: Pensioners  
Respondent: Employer  
ROD Case No: 88-111 - May 9, 1990

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, 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 Pensioners under the terms of the Employer Benefit Plan.

Background Facts

The Complainants are four UMWA 1974 Pension Plan Pensioners who were last employed in classified positions by Omar Mining Company ("Omar"). Omar was signatory to the National Bituminous Coal Wage Agreements ("Wage Agreement") of 1978, 1981, and 1984. Omar ceased operations on September 30, 1987, and it is not signatory to the 1988 Wage Agreement.

On October 1, 1987, Laurel Creek Mining Company ("Laurel Creek"), the Respondent, contracted with Omar to operate four of Omar's underground mines. The contract mining agreement executed by Omar and Laurel Creek states that, if Omar elects, Laurel Creek will assume responsibility to pay medical costs incurred by Omar's retired hourly employees and Omar will reimburse Laurel Creek for the actual costs incurred in this regard upon invoice to Omar. The Complainants contend that Laurel Creek, as a successor to Omar, is responsible for providing their health benefits coverage.

Two of the Complainants receive 1974 Pension Plan Minimum Disability pensions; one was awarded on August 6, 1986 retroactive to May 1, 1985, and the other was awarded on May 3, 1988 retroactive to November 1, 1982. The third Complainant was awarded an Age 55 retirement pension on January 14, 1989, effective April 1, 1983. On April 10, 1989, he was notified by the Funds that, effective October 1, 1984, he was eligible for a Disability pension rather than an Age 55 pension, and his monthly pension payments were increased in accordance with the provisions of the 1974 Pension Plan. The remaining Complainant was injured while working in a classified job for Omar Mining on May 19, 1977. As a result of this injury, he

ceased working for Omar on June 21, 1977. On March 20, 1980, this Complainant was awarded Social Security Disability Insurance ("SSDI") benefits, effective June 21, 1977. The Complainant was subsequently notified by the Funds that because he was eligible for SSDI benefits, had not yet attained age 55, and had completed 20 years of credited service, he could qualify for health benefits coverage as a disabled Employee, if his last Employer, Omar, determined that he became disabled while in classified employment with the Employer. This Complainant began receiving a 1974 Pension Plan Deferred Vested pension based on 20 1/4 years of credited service, effective July 1, 1989.

Laurel Creek was signatory to the 1984 Wage Agreement and is signatory to the 1988 Wage Agreement. Laurel Creek states that since October 1, 1987 it has provided health benefits coverage for 40 Pensioners from Omar Mining, and it has been reimbursed by Omar for actual costs of such coverage. Laurel Creek states that Omar instructed it to provide coverage to 3 of the Complainants pursuant to the contract mining agreement and to terminate such coverage when Omar determined that they were not eligible for benefits. Omar notified those Complainants by letter dated January 17, 1989 that it was not obligated to provide coverage for them beyond the expiration date of the 1984 Wage Agreement, and therefore the coverage had been terminated effective February 1, 1988. Omar further stated that any benefits the Complainants had received between February 1, 1988 and the date of the letter were "gratuitously" paid, but as of January 17, 1989, no pending or future claims would be paid.

#### Dispute

Whether Laurel Creek, as a successor to Omar, is responsible for providing health benefits coverage for the Complainants?

#### Positions of the Parties

Position of the Complainants: Laurel Creek, as a successor to Omar, is responsible for providing health benefits coverage for the Complainants.

Position of the Respondent: Laurel Creek is not responsible for providing health benefits coverage for the Complainants because the Complainants last worked for Omar and they were never employed by Laurel Creek. Furthermore, the Complainants were disabled Employees, not retirees, when the October 1, 1987 contract mining agreement was executed, and they did not become retirees until after Omar was no longer signatory to the Wage Agreement.

#### Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement 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), (4) 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 1988, 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.
- (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 & part 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 provisions of Article II B of this Plan.

Article II B. (1) and C. (1) of the Employer Benefit Plan provide:

#### 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) February 1, 1988, 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(S) 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.

C. Disabled Employees

In addition to disabled Pensioners who are receiving pension benefits and are therefore entitled to receive health benefits under paragraph B of his Article II, health benefits under Article III shall also be provided to any Employee who:

- (1)
  - (a) Has completed 20 years of credited service, including the required number of years of signatory service pursuant to Article IV C(6) of the 1974 Pension Plan or any corresponding paragraph of any successor thereto, and
  - (b) has not attained age 55, and
  - (c) became disabled after December 6, 1974 while in classified employment with the Employer, and
  - (d) is eligible for Social Security Disability Insurance Benefits under Title II of the Social Security Act or its successor;

Discussion

Article XX Section (c)(3)(i) of the 1981 and 1984 National Bituminous Coal Wage Agreements requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees covered by the Agreement and for its Pensioners whose last signatory classified employment was with such Employer. The Wage Agreements stipulate that benefits provided pursuant to such Plan shall be guaranteed during the term of the Agreements. Inasmuch as the Complainants' last signatory classified employment was with Omar Mining, Omar is responsible for providing their health benefits coverage as disabled Employees and as Pensioners, pursuant to the terms of the Employer Benefit Plan.

Laurel Creek entered into a contract mining agreement with Omar on October 1, 1987, which provides in Article 5.02:

"If OWNER (Omar) elects, CONTRACTOR (Laurel Creek) will assume the responsibility to pay to or on behalf of OWNER'S retired hourly employees such medical costs or charges as such retired hourly employees may legitimately incur under the terms and conditions of the existing 1984 Bituminous Coal Wage Agreement or other medical plan substituted for such 1984 medical plan and OWNER will reimburse CONTRACTOR for its actual cost incurred in its regard upon invoice to OWNER."

Article 5.02 indicates that Omar must elect for Laurel Creek to provide health benefits coverage to Omar's retirees. In fact, Omar had instructed Laurel Creek to both start and stop health benefits coverage for three of the four Complainants in this case. Furthermore, Omar agreed to reimburse Laurel Creek for the actual cost associated with the provision of coverage to Omar's retirees. This arrangement does not indicate that Laurel Creek expressly assumed the health benefits obligations of Omar. In addition, there is no evidence of an arbitration or court decision that Laurel Creek is responsible for providing health benefits coverage for Omar's former Employees and Pensioners. Accordingly, the Trustees have no basis on which to find the Respondent, Laurel Creek, responsible for providing health benefits coverage for the Complainants.

#### Opinion of the Trustees

The Respondent, Laurel Creek Mining Company, is not responsible for providing health benefits coverage for the Complainants.