
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-702 - September 28, 1993

Board of Trustees: Michael H. Holland, Chairman; Thomas F. Connors, Trustee;
Marty D. Hudson, Trustee; Robert T. Wallace, Trustee.

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 awarded a UMWA 1974 Pension Plan Age 55 pension, effective August 1, 1992 and was advised to contact the Respondent, his last signatory Employer, regarding his eligibility for health benefits coverage as a Pensioner. The Complainant states that the Respondent has failed to provide him with health benefits coverage.

Dispute

Is the Respondent required to provide health benefits coverage for the Complainant as a Pensioner?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner.

Position of the Respondent: The Respondent states that it provides health benefits coverage for the Complainant's spouse, but has not been able to find a company that will insure the Complainant. The Respondent states that it is financially unable to pay the Complainant's medical bills.

Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1988 provides, in pertinent part:

(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 (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.
- (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) 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(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 Section (c)(3)(i) of the 1988 Wage Agreement requires that a signatory Employer establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for Pensioners whose last signatory classified employment was with such Employer. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such Plan.

Article II B. of the Employer Benefit Plan establishes that an individual who is eligible for pension benefits under the 1974 Pension Plan is eligible for health benefits coverage under the Employer Benefit Plan, with certain exceptions not relevant here. Inasmuch as the Complainant is receiving a 1974 Pension Plan Age 55 pension effective August 1, 1992, he is eligible for benefits as a Pensioner under Article II B. of the Employer Benefit Plan established by his last signatory Employer, the Respondent. The Respondent's claim that it is unable to find an insurance carrier to provide health benefits coverage for the Complainant, and that it is financially unable to pay the Complainant's medical bills, does not relieve the Respondent of its obligation to provide such coverage under the terms of the Wage Agreement and the Employer Benefit Plan. Accordingly, the Respondent is required to provide health benefits coverage for the Complainant effective August 1, 1992.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective August 1, 1992.