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OPINION OF TRUSTEES

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In Re

Complainants: Surviving Spouse and Son of Deceased Employee  
Respondent: Employer  
ROD Case No: 88-707 - June 8, 1995

Trustees: Thomas F. Connors, Michael H. Holland, Marty D. Hudson and  
Robert T. Wallace.

The Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits for the survivors of an Employee under the terms of the Employer Benefit Plan.

Background Facts

The Complainant and the Employee were married in 1969 and received a divorce in June 1990. The Complainant claims that six months after their divorce she and her ex-husband began living together as a common-law couple and remained so until his death by suicide on December 2, 1992.

The Complainant contends that the Respondent is required to provide a life insurance benefit to the Employee's named beneficiary (the Employee's son) and health benefits coverage for the Complainant as the common-law surviving spouse. The Complainant has submitted the following documentation to support her claim as a common-law spouse: statements from relatives and acquaintances; bank statements; the Employee's death notice; real estate sales contracts; tax assessments; and insurance policies.

The Respondent states that on November 2, 1992, the Employee failed to report to work. The Respondent notified the Employee by letter dated December 2, 1992, that he was suspended with intent to discharge because he had been absent from work since October 31, 1992 and had not contacted the Respondent concerning his absence. The Respondent claims that following the Employee's death it discovered that, during his absence in November 1992, the Employee had applied for another job.

The Respondent states that it is not required to provide health benefits to the Complainant or life insurance benefits to the Employee's son because the Employee voluntarily terminated his employment or was suspended and would have been discharged but for his death. The

Respondent also states that "[e]ven if one assumes [the Employee] was still an employee" the Complainant is not entitled to health benefits coverage because she was divorced from the Employee and the Employee had not listed her as a dependent on his group insurance enrollment card.

### Dispute

Is the Respondent required to provide a life insurance benefit to the Employee's named beneficiary and health benefits coverage for the Complainant as a common-law spouse of a deceased Employee?

### Positions of the Parties

Position of the Complainant: The Respondent is required to provide a life insurance benefit to the Employee's named beneficiary (the Employee's son) and health benefits coverage for the Complainant as a common-law spouse of a deceased Employee.

Position of the Respondent: The Respondent is not required to provide a life insurance benefit to the named beneficiary or health benefits coverage for the Complainant because the Employee had voluntarily terminated his employment with the Respondent prior to his death and there was just cause for the Employee's discharge. In addition, the Complainant does not qualify as a surviving spouse of an Employee because she was divorced from the Employee.

### 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 (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.
- (7) "Dependent" shall mean any person described in Section D of Article II hereof.

Article II A. (1) and (4) and II E. (3) 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 the first day worked with the Employer.

E. Surviving Spouse and Dependents of Deceased Employees or Pensioners

Health benefits under Article III shall be provided to (i) any unmarried surviving spouse (who was living with or being supported by the Employee or Pensioner immediately prior to the Employee's or Pensioner's death) and (ii) such spouse's unmarried surviving dependent children as defined in subparagraphs (2) and (5) of paragraph D of an Employee or Pensioner who died:

- (3) At a time when such Employee or Pensioner is entitled to receive health benefits pursuant to paragraph A, B, or C of this Article II, provided that (i) if such Employee or Pensioner died prior to the effective date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit, then only for the period that the spouse is eligible to receive death benefits in installment payments pursuant to paragraph C of Article III, or (ii) if such Employee or Pensioner died on or after the effective date of the Wage Agreement and the spouse is not eligible for a Surviving Spouse's benefit and life insurance benefits or death benefits are payable in a lump sum, then only for 60 months following the month of the death of such Employee or only for 22 months following the month of the death of such Pensioner. If life insurance benefits are not payable, health benefits shall be provided only to the end of the month in which the Employee or Pensioner died.

Health benefits shall continue for a surviving spouse until remarriage of such spouse, but if such spouse is entitled to such benefits under paragraph (3) above, such health benefits will continue not longer than for the period specified in paragraph (3) above. Health benefits shall not be provided during any month in which such surviving spouse is regularly employed at an earnings rate equivalent to at least \$500 a month.

\*Actively at work includes an Employee of the Employer who was actively at work on January 31, 1988, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

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

B. Life and Accidental Death and Dismemberment Insurance

(1) Active Employees

Life and accidental death and dismemberment insurance will be provided for Employees, as described in Article II, Sections A and C (3), in accordance with the following schedule:

- (a) Upon the death of an Employee due to other than violent, external and accidental means, life insurance in the amount of \$35,000 will be paid to the Employee's named beneficiary.

Article III D. (1) (e) of the Employer Benefit Plan provides in pertinent part:

Article III - Benefits

D. General Provisions

(1) Continuation of Coverage

(e) Quit or Discharge

If an Employee quits (for any reason) or is discharged, health, life and accidental death and dismemberment coverage will terminate as of the date last worked...

Discussion

In RODs 84-111 and 88-181 (copies enclosed herein) the Trustees determined that under Article II A. of the Employer Benefit Plan, health benefits are provided to "active Employees" which includes those Employees actively at work for the Employer on the effective date of the Wage Agreement. Because the Employee was actively at work for the Respondent on the effective date of the National Bituminous Coal Wage Agreement of 1988, his eligibility for health benefits under the Employer Benefit Plan commenced on that date. The only conditions under which an Employee's health benefits coverage could be terminated are set forth in Article III D. (1) (c) and (e) of the Plan. Article III D. (1) (e) provides that if an Employee quits or is discharged, health and other non-pension benefits will cease as of the date last worked. There was no evidence submitted to establish that the Employee had quit his job with the Respondent. (See ROD 51.) Also, the Employee was suspended but had not been discharged on the date of his death. Thus, because the Employee satisfied the definition of "active Employee" on the effective date of the

Wage Agreement and had not quit or been discharged, the Employee was eligible for health benefits coverage under Article II A. at the time of his death.

Article III B. (1) of the Employer Benefit Plan provides life insurance coverage to Employees as described in Article II A. of the Plan. Inasmuch as the Employee was eligible to receive health benefits coverage under Article II A. at the time of his death, the Employee's named beneficiary is entitled to a life insurance benefit.

Under Article II E. (3) (ii) of the Employer Benefit Plan the unmarried surviving spouse of an Employee who died while eligible to receive health benefits pursuant to Article II A., is eligible to receive health benefits for 60 months following the Employee's death, if such spouse is not eligible to receive a Surviving Spouse benefit and life insurance benefits are payable in a lump sum.

The Complainant contends that she is eligible for health benefits coverage as a common-law surviving spouse of an Employee. The issue of eligibility for health benefits coverage of a common-law spouse has previously been addressed by the Trustees (see RODs 156, 81-685, and 88-245). The Trustees stated that if there is no living spouse of either party in the background a valid common-law marriage exists if the relationship has been of substantial and continuous duration and the parties have been living together openly as married persons and are recognized as such in the community. The Trustees further stated that a common-law relationship of substantial and continuous duration is one which has or had continued for a period of not less than nine (9) months (see RODs 84-256 and 88-162). If a valid common-law marriage is established, the dependent spouse will be eligible for health benefits coverage under the Employer Benefit Plan.

In support of her claim that she and her ex-husband had established a common-law marriage after their divorce in 1990, the Complainant has submitted documentation which includes the following: a life insurance policy issued in May 1991 which lists the Complainant as the Employee's wife; statements from their joint credit union account dated June 1991 and June 1992; a statement for a joint renter's insurance policy issued in July 1991; a statement for a joint mutual fund account established in August 1991; a statement for a joint auto insurance policy for a period beginning in August 1991; an application for a joint credit account dated in September 1991; a copy of a real estate sales contract dated June 15, 1992 which lists the Complainant and the Employee as buyers; and a copy of a receipt dated June 1992 for their daughter's school tuition on which the Complainant and the Employee are listed as Mr. and Mrs. The Complainant also submitted notices from her local newspaper and church indicating that she was the wife of the deceased Employee and a notarized statement from the landlord of the Complainant and the Employee, indicating that the two were known in the community as husband and wife. Although the Complainant was not listed as a dependent on the Employee's group enrollment insurance card, the evidence submitted by the Complainant is sufficient to establish that a valid common-law marriage existed as defined in Q&A H-1 (81).

Inasmuch as the Complainant is the unmarried widow of an active Employee who was eligible to receive health benefits at the time of his death, is not eligible to receive a Surviving Spouse benefit, and life insurance benefits are payable in a lump sum, the Complainant is entitled to

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health benefits coverage from the Respondent for 60 months following the month of the death of her husband. Inasmuch as the Employee died on December 2, 1992, the Complainant's period of eligibility extends through December 1997, provided she otherwise meets the eligibility requirements of Article II E. (3) of the Employer Benefit Plan.

Opinion of the Trustees

The Respondent is required to provide a life insurance benefit to the Employee's named beneficiary and to provide health benefits coverage for the Complainant through December 1997, provided she otherwise meets the eligibility requirements of Article II E. (3) of the Employer Benefit Plan.