
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-762 - December 15, 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 benefits under the terms of the Employer Benefit Plan.

Background Facts

The Complainant's last classified signatory employment in the coal industry was with the Respondent from October 23, 1992, through October 26, 1992. On June 23, 1993, the Complainant was awarded a UMWA 1974 Pension Plan Age 55 retirement pension, effective December 1, 1992. The Complainant was advised by letter to contact his last signatory employer, the Respondent, regarding his eligibility for health benefits coverage as a Pensioner. The Complainant states that the Respondent has refused to provide his health benefits coverage.

The Respondent claims that prior to being hired the Complainant knew that he was physically unable to perform the work. The Respondent contends that the Complainant was obligated to inform the Respondent of this limitation but failed to do so. The Respondent contends according to Q&A H-10 (81) that the Complainant's previous signatory employer for whom he worked from July 1987 to December 1991 should be required to provide the Complainant's health benefits coverage as a pensioner.

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 is not required to provide health benefits coverage for the Complainant as a pensioner because the Complainant, prior to being hired, failed to

inform the Respondent of his inability to perform the work. The Complainant's previous signatory Employer is required to provide health benefits coverage for the Complainant as a pensioner.

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.... 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) 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 National Bituminous Coal Wage Agreement requires a signatory Employer to 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. Article II B. (1) of the Employer Benefit Plan establishes that an individual who is receiving a pension under the 1974 Pension Plan, other than a deferred vested pension based on less than 20 years of credited service or a pension based in whole or in part on years of service credited under Article II G. of the 1974 Plan, is eligible for health benefits coverage under the Employer Benefit Plan.

The Respondent contends that according to Q&A H-10 (81), the Complainant's previous signatory employer is required to provide the Complainant's health benefits coverage. Q&A H-10 (81) refers to Article II B.(3) of the Employer Benefit Plan, which addresses pensioners who subsequently return to work in the coal industry after having retired under the 1974 Pension Plan and is not relevant to the particular facts here.

Funds' records show that the Complainant's last signatory classified employment was with the Respondent from October 23, 1992, through October 26, 1992. The Trustees have previously determined in RODs 81-652, 84-443, 88-231 and 88-391 (copies enclosed herein) that, under the terms of the Employer Benefit Plan, an Employer's obligation to provide benefits for its Pensioners is not contingent upon any minimum length of service requirements. Inasmuch as the Complainant was awarded a UMWA 1974 Pension Plan Age 55 retirement pension

effective December 1, 1992, the Complainant meets the eligibility requirements of Article II B. (1) and is entitled to health benefits coverage from his last signatory Employer, the Respondent.

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The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective December 1, 1992, consistent with the terms of the Employer Benefit Plan.