
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 88-807 - February 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 under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was notified by letter dated December 2, 1993, that he was awarded a 1974 Pension Plan minimum disability pension, effective March 1, 1989. The Complainant was advised 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 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 has not responded to repeated correspondence from Funds' staff requesting its position in this dispute.

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 1988 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 1988 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 II B. of the Employer Benefit Plan, established pursuant to the 1988 Wage Agreement, provides health benefits coverage for Pensioners. Article I (5) of the Plan defines such Pensioners as any person whose last classified signatory employment was with the Employer, and who is receiving a pension under the UMWA 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 the terms of Article II G of the 1974 Pension Plan.

The Complainant is receiving a 1974 Pension Plan minimum disability pension, effective March 1, 1989. He is not receiving a deferred vested pension nor 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. Inasmuch as the Complainant is receiving a minimum disability pension and his last classified signatory employment was with the Respondent, he is a Pensioner within the definition of Article I (5) of the Employer Benefit Plan established by the Respondent, and is eligible to receive health benefits under Article II B. thereof. Accordingly, the Respondent is required to provide health benefits coverage for the Complainant as a Pensioner.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective March 1, 1989, consistent with the terms of the Employer Benefit Plan.