
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 98-025 – November 7, 2001

Trustees: A. Frank Dunham, Michael H. Holland, Marty D. Hudson and
Elliot A. Segal.

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 awarded a deferred vested pension-special under the 1974 Pension Plan effective August 1, 2000, based on 22.50 years of signatory service. The Complainant was last employed in the coal industry on April 27, 1996, with the Respondent, a signatory employer who reported to the UMWA Health and Retirement Funds (“Funds”) that the Complainant worked a total of 759 hours. The Respondent has refused to provide health benefits coverage for the Complainant as a Pensioner.

According to the Respondent, the Respondent is not the Complainant’s last signatory employer because the Complainant was, in fact, employed by a non-signatory employer that had an arrangement with the Respondent to erect equipment and provide training to the Respondent’s classified employees. The Respondent states that based on a Memorandum of Understanding signed by the Respondent and the United Mine Workers of America (“UMWA”), the Complainant had “quasi” union membership status for a temporary period and that the Complainant’s work hours reported to the Funds by the Respondent were reported in error. Furthermore, the Respondent states that it was not the intent of the Respondent to provide post-retirement health coverage for the Complainant as a result of a few weeks of employment.

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 the Complainant with health benefits coverage because the Respondent was the Complainant’s last signatory employer for

whom the Complainant performed classified work prior to his retirement.

Position of the Respondent: The Respondent is not required to provide the Complainant with health benefits coverage because the Complainant was not a regular employee of the Respondent and thus eligible for health benefits coverage.

Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1998 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. . . .

* * *

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 1998, as amended from time to time and any successor agreement.

* * *

- (4) "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, (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; or (iii) a special permanent layoff pension under the terms of Article II. E(4) of the

1974 Plan, during any period prior to the person's attainment of age 55. "Pensioner" shall not mean any individual entitled to benefits under Section 9711 of the Internal Revenue Code of 1986, as amended by the Coal Industry Retiree Health Benefit Act of 1992.

* * *

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

Article II - Eligibility

B. Pensioners

Health benefits 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) December 31, 1997, 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 1998 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. of the Employer Benefit Plan established pursuant to the 1998 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 in this case was awarded a deferred vested pension-special under the UMWA 1974 Pension Plan pension, effective August 1, 2000; therefore, he is entitled to health benefits coverage. The issue here is whether the Respondent is the Complainant's last signatory Employer.

The Respondent contends that the Complainant was not a regular Employee of the Respondent; therefore, the Respondent is not the Complainant's last signatory Employer responsible for providing health benefits coverage. However, documents submitted to or reviewed by the Funds do not support this contention. For example, the Complainant was listed on the Respondent's payroll records for the period he worked for the Respondent and was reported to the Internal Revenue Service as an Employee receiving a wage. Additionally, the Respondent represented to the Funds a letter dated February 5, 1997, that the Respondent employed the Complainant from January 1996 through April 1996. These documents support the conclusion that the Complainant was the Respondent's Employee.

The Respondent also contends that the Memorandum of Understanding entered into between the Respondent and the local union does not assign liability for the Complainant's health benefits coverage as a Pensioner to the Respondent. Although the Memorandum of Understanding addresses UMWA membership and rate of pay for job titles payable under the 1993 National Bituminous Coal Wage Agreement, the Memorandum of Understanding is silent on the provision of benefits to individuals who retire during the period addressed by the memorandum. However, had the parties intended that the Respondent would exclude coverage for such retirees, it is reasonable to assume that it would have used unequivocal language to specify that result. Therefore, absent an express agreement that the Respondent is not responsible for providing health benefits coverage for an Employee who retires during the period addressed by the Memorandum of Understanding, the Respondent is required to provide health benefits coverage to the Complainant as a Pensioner.

Finally, the Respondent states that because the Complainant completed only 759 hours of classified service for the Respondent prior to his retirement, the Respondent should not be required to provide coverage for the Complainant as a Pensioner. Funds' records show that the Complainant's last signatory classified employment was with the Respondent on April 27, 1996. The Trustees have previously determined in RODs 81-652 and 84-443 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. Consequently, the Trustees conclude that the Respondent, as the Complainant's last signatory Employer, is required to provide health benefits coverage for the Complainant as a Pensioner pursuant to Article II B (1) of the Employer Benefit Plan.

Opinion of Trustees
ROD Case No. 98-025
Page 5

The Respondent is required to provide coverage for the Complainant as a Pensioner effective August 1, 2000.