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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 98-030 – January 17, 2003

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's last classified signatory employment in the coal industry was with the Respondent on December 27, 1995. The Complainant was notified by letter dated July 12, 1996, that he was awarded a UMWA 1974 Pension Plan Deferred Vested pension, effective April 1, 1996, based on 20.58 years of credited service. The Complainant was advised to contact his last signatory employer, the Respondent, regarding his eligibility for health benefits coverage as a Pensioner.

According to the Respondent, the Complainant was hired on March 8, 1995, based on his claim that he held current certification as an electrician. After the Complainant was hired, the Respondent determined that his certification had already expired. When the Complainant failed to provide evidence that he was currently certified, the Respondent terminated his employment on December 27, 1995. The Respondent has refused to provide the Complainant health benefits coverage as a Pensioner.

Dispute

Is the Respondent is 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 because the Complainant falsified records to gain employment with the Respondent. Therefore, the Complainant's previous employer should be responsible for providing the Complainant's health benefits coverage.

Pertinent Provisions

Article XX Section (c)(3)(i) of the 1993 National Bituminous Coal Wage Agreement states 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 and who are not eligible to receive benefits from a plan maintained pursuant to the Coal Act. . . .

Article I (2), (4) and (5) of the 1993 Employer Benefit Plan provides:

ARTICLE I DEFINITIONS

The following terms shall have the meanings herein set forth:

- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1993, 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.
- (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. "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 - Eligibility

The persons eligible to receive health benefits pursuant to Article III are as follows:

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) February 1, 1993, 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(c)(3)(i) of the 1993 Wage Agreement requires a signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its 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 (with certain exemptions not relevant here) is eligible for health benefits coverage under the Employer Benefit Plan.

The Respondent was signatory to the 1993 Wage Agreement which provides under Article XX(c)(3)(i) that a signatory Employer is required to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Pensioners whose last signatory classified employment was with such Employer. The Complainant was awarded a UMWA 1974 Pension Plan Deferred Vested pension effective April 1, 1996, based on 20.58 years of credited service. Because the Complainant is receiving a pension under the 1974 Pension Plan, he meets the eligibility requirements of Article II B. (1) and is entitled to health benefits coverage from his last signatory employer, the Respondent.

The Respondent argues that because the Complainant was hired under false pretenses, the company that employed the Complainant prior to the Respondent should be responsible for providing health benefits for the Complainant. However, an employer's challenge of a pension eligibility decision such as the assignment of the pensioner's last signatory employer must be raised in a separate procedure authorized by Article XX (g) of the Wage Agreement and may not

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be addressed by the Trustees in the ROD process.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective April 1, 1996, consistent with the terms of the Employer Benefit Plan.