
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 98-035 - March 13, 2002

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 notified by letter dated October 26, 2000, that he was eligible for a UMWA 1974 Pension Plan Disability pension, effective May 1, 1998. The Complainant was advised to contact the Respondent, his last signatory Employer, regarding his eligibility for health benefits coverage as a Pensioner. The Respondent has refused to provide health benefits coverage for the Complainant.

In a separate administrative procedure, the UMWA 1993 Benefit Plan and Trust on September 10, 2001, determined that although the Respondent ceased its mining operations, an audit of the Respondent's company records indicated that the Respondent is financially able to provide health benefits to its retirees.

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 because the company is out of business and is not financially able to provide 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 and who are not eligible to receive benefits from a plan maintained pursuant to the Coal Act. The benefits provided by the Employer to its eligible Participants pursuant to such plan shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plan. . . .

Article I (1), (2) and (5) of the 1998 Employer Benefit Plan provide:

Article I - Definitions

- (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.
- (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 credit 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; or (iii) a special permanent layoff pension under the terms of Article II. E (4) of the 1974 Pension 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 1998 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 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 II B. of the Employer Benefit Plan established pursuant to the 1998 Wage Agreement states that health benefits coverage shall be provided for Pensioners who are receiving pension benefits under the 1974 Pension Plan. Article I (5) of the Employer Benefit 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 with certain exceptions not relevant here. The Complainant is receiving a disability pension from the 1974 Pension Plan. Therefore, he satisfies the definition of "Pensioner" as set forth in Article I (5) of the Plan and is eligible for health benefits coverage under Article II B. of the Employer Benefit Plan established by his last signatory Employer, the Respondent.

The Respondent's claim that it is financially unable to provide health benefits coverage for the Complainant does not relieve the Respondent of its obligation to provide such coverage under the terms of the Wage Agreement and the Employer Benefit Plan. Furthermore, as stated above, the 1993 Benefit Plan and Trust determined that the Respondent is financially able to provide health benefits coverage to its retirees. Accordingly, the Respondent is required to provide health benefits coverage for the Complainant and his eligible dependents effective May 1, 1998.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner effective May 1, 1998.