
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: 98-0051 – November 22, 2010

Trustees: Micheal W. Buckner, Daniel L. Fassio, Morris D. Feibusch, and Michael H. Holland

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 March 28, 2002, that he was eligible for a UMWA 1974 Pension Plan Disability pension, effective October 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.

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: Respondent has not submitted a response to this ROD.

Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 2007 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 plans.

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

Article I - Definitions

- (1) "Employer" means (Insert Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1978, 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; (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.

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, under certain circumstances, 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 has asserted that the Complainant is not entitled to a disability pension from the 1974 Pension Plan. The Respondent's challenge of a pension eligibility decision under the 1974 Pension Plan may not be addressed by the Trustees in the ROD process. The Respondent's challenge has been addressed in a separate procedure authorized by Article XX. (g)(3) of the Wage Agreement.

Opinion of the Trustees

The Respondent is required to provide health benefits coverage for the Complainant as a Pensioner, effective October 1, 1998, consistent with the terms of the Employer Benefit Plan. Any Employer challenge of a pension eligibility decision must be raised in a separate procedure authorized by Article XX. (g)(3) of the Wage Agreement, and may not be addressed by the Trustees in the ROD process.