
OPINION OF TRUSTEES

In Re

Complainant: Pensioner
Respondent: Employer
ROD Case No: CA-050 - January 15, 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 Coal Industry Retiree Benefit Act of 1992 (Coal Act) Employer Benefit Plan maintained pursuant to section 9711 of the Internal Revenue Code.

Background Facts

The Complainant is a pensioner whose last signatory employment was with the Respondent. The Complainant provided a copy of a certificate that indicates on November 7, 1993, the Complainant was “joined in Holy Union” with a person of the same sex in a ceremony performed at a church in West Virginia. In September 1998, the Complainant requested the Respondent provide health benefits coverage for the Complainant’s domestic partner because the Complainant provides over one-half of her partner’s support. The Complainant and her partner currently reside in Florida.

Dispute

Is the Respondent required to provide coverage for the Complainant’s domestic partner of the same sex?

Positions of the Parties

Position of the Complainant: The Respondent is required to provide health benefits coverage for the Complainant’s domestic partner because the Complainant provides over one-half of her partner’s support.

Position of the Respondent: The Respondent is not required to provide health benefits coverage for the Complainant’s domestic partner because the Complainant’s partner does not qualify as a spouse under Federal or State laws nor is there a provision under the Coal Act Employer Benefit Plan that provides coverage for a spouse of the same sex.

Pertinent Provisions

Article I (1), (2), (4) and (5) of the Coal Act Employer Benefit Plan:

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.

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- (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, 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 of this Plan. Notwithstanding the foregoing, "Pensioner" shall not mean any person who had not met all age and service requirements for receiving benefits as of February 1, 1993, and shall not mean any person who retires from the coal industry after September 30, 1994.
- (5) "Beneficiary " shall mean any person who is eligible pursuant to the Plan to receive health benefits as set forth in Article III hereof.

Article II of the Coal Act Employer Benefit Plan provides in pertinent part:

ARTICLE II ELIGIBILITY

The persons eligible to receive the health benefits pursuant to Article III are those individuals who are entitled to receive such benefits under section 9711 of the Internal Revenue Code, subject to the eligibility provisions of the Employer Plan in effect on February 1, 1993, and to all other provisions of this Plan. . . .

As noted in Article II of the Coal Act Employer Benefit Plan, the individuals eligible to receive

health benefits under section 9711 of the Internal Revenue Code (the Coal Act) are subject to the eligibility provisions of the Employer Benefit Plan in effect on February 1, 1993. The Plan in effect on February 1, 1993, was the 1988 Employer Benefit Plan.

Pertinent provisions from the 1988 Employer Benefit Plan:

Article II D. (1) of the 1988 Employer Benefit Plan provide:

Article II - ELIGIBILITY

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

D. Eligible Dependents

Health benefits under Article III shall be provided to the following members of the family of any Employee, Pensioner, or disabled Employee receiving health benefits pursuant to paragraphs A, B, or C of this Article II:

- (1) A spouse who is living with or being supported by an eligible Employee or Pensioner;

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For purposes of this paragraph D, a person shall be considered dependent upon an eligible Employee, Pensioner or spouse if such Employee, Pensioner or spouse provides on a regular basis over one-half of the support to such person.

Discussion

Article II D. (1) of the 1988 Employer Benefit Plan (“Employer Plan”) permits health benefits coverage for a spouse who is living with or being supported by an eligible Employee or Pensioner. Although the term spouse is not defined in the Employer Benefit Plan, the policy of the Trustees has been to define a spouse as a person of the opposite sex. Therefore, under the Employer Benefit Plan, a spouse cannot be a person of the same sex.

Opinion of the Trustees

The Respondent is not required to provide coverage for the Complainant’s domestic partner under Article II D. (1) of the 1988 Employer Benefit Plan.