

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAYMOND J. MURREN et al. : CIVIL ACTION
: :
v. : :
: :
AMERICAN NATIONAL CAN : :
COMPANY et al. : NO. 99-CV-3136

MEMORANDUM AND ORDER

J. M. KELLY, J.

JULY , 2000

Presently before the Court is a motion for summary judgment filed by the Defendants, American National Can Company (“ANC”), the pension plan between the United Steelworkers of America (“Steelworkers”) and ANC (“ANC/Steelworkers Pension Plan”) and the pension plan between the International Association of Machinists and Aerospace Workers (“Machinists”) and ANC (“ANC/Machinists Pension Plan”) (collectively referred to as the “Defendants”). Also before the Court is a cross-motion for summary judgment filed by the Plaintiffs, Raymond Murren, Carl Gobrecht and Larry Walton (collectively referred to as the “Plaintiffs”). These motions arise from the Plaintiffs’ suit, pursuant to the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. §§ 1001-1461 (1994), against ANC and the pension plans for wrongful denial of pension benefits. For the following reasons, the Defendants’ motion is granted and the Plaintiffs’ motion is denied.

I. BACKGROUND

Relying on the parties’ stipulations of fact and otherwise accepting as true the evidence of the nonmoving party, respectively, and all inferences that can be drawn therefrom, the facts of the case are as follows. The Plaintiffs were employed by National Can Company, presently known as American National Can Company, at its Hanover, Pennsylvania plant from 1964 until the

plant closed in November 1987. See Pls.’ Mot. for Summ. J. Ex. 1, ¶ 4. While employed at ANC, the Plaintiffs were members of the Steelworkers and accordingly were covered under the ANC/Steelworkers Pension Plan. See id. ¶ 5. At the time the Hanover plant closed, the Plaintiffs fell into a special category of employees under the ANC/Steelworkers Pension Plan who were, or could become, eligible for “Rule-of-65” retirement. See id. ¶ 8. Rule-of-65 retirement permits an employee to retire with an unreduced pension before the normal retirement age when the sum of his age and at least twenty years of employment equals sixty-five, so long as the employee has been on layoff or absent with a physical disability for two years and has not refused an offer by the employer for “Suitable Long Term Employment” (“SLTE”) at another of its plants where employees are represented by the Steelworkers. See id. ¶¶ 9-10.

On July 19, 1989, within two years from the date of the Hanover plant’s closing, ANC offered the Plaintiffs what it considered to be SLTE at its Lehigh, Pennsylvania Steelworkers plant. See id. ¶ 24. At the time of ANC’s offer of SLTE, the Plaintiffs had been working for approximately nine months at one of ANC’s non-Steelworkers plants in LeMoyne, Pennsylvania. See id. Employees at the LeMoyne plant were represented by the Machinists. See id. ¶ 19.

The Plaintiffs allege that upon their transfer to the LeMoyne plant, they ceased to be “Employees” pursuant to the terms of the ANC/Steelworkers Pension Plan and therefore were no longer covered by its provisions. Instead, upon their transfer to the LeMoyne plant, each of the Plaintiffs became covered under the ANC/Machinists Pension Plan. See id. Under the terms of the ANC/Machinists Pension Plan, all of the Plaintiffs’ years of service with ANC carried over from Hanover to LeMoyne for all purposes other than determining their accrued pension benefits. See id. ¶ 21. The Plaintiffs allege they became fully vested in the ANC/Machinists Pension Plan

at the prior benefit levels on the first of the month following their date of transfer to the LeMoyne plant. Therefore, based on assurances by ANC that they would not lose previously earned pension benefits, and despite the fact that the SLTE offer letter stated that “[a] refusal by an employee who is otherwise eligible . . . for a Rule of 65 Retirement to accept an offer of SLTE will result in his ineligibility for Rule of 65 Retirement” benefits, the Plaintiffs refused the SLTE offer. Defs.’ Mot. for Summ. J. Ex. J; see Pls.’ Mot. for Summ. J. Ex. 1, ¶ 27.

On August 18, 1989, ANC sent the Plaintiffs a letter confirming that they had rejected the SLTE offer. See Defs.’ Mot. for Summ. J. Ex. L. The letter also informed them that their refusal of the SLTE offer made them ineligible “for a Rule of 65 Pension pursuant to the pension agreement between [ANC] and the [Steelworkers] relative to the Hanover Plant Closing.” Id.

The Plaintiffs remained employed at the LeMoyne plant until December 1990 when they were laid off. See Pls.’ Mot. for Summ. J. Ex. 1, ¶ 29. They were on layoff until January 1, 1993 when they retired from ANC. See id. ¶ 30. Prior to their retirement from ANC in 1993, each Plaintiff filed a pension application form. See id. ¶ 34. Pursuant to the terms of the ANC/Machinists Pension Plan, an employee is eligible for “Special Early Retirement” benefits under the “65/25 Rule” if he has at least twenty-five years of Accredited Service, his age plus years of Accredited Service equals sixty-five or more and he has been absent from work due to layoffs for two consecutive years. See id. ¶ 35. Accordingly, upon their retirement, the Plaintiffs were entitled to 65/25 Rule benefits as set forth in the ANC/Machinists Pension Plan. See id. ¶ 36.

The parties disagree, however, as to the amount of benefits owed. While each of the Plaintiffs had by this time been employed by ANC for twenty-eight years, ANC, as the plan

administrator, determined that they were each eligible for benefits based on only their years of service at the LeMoyne plant. See id. ¶¶ 31 & 37. ANC had determined that the Plaintiffs' failure to accept the SLTE resulted in a forfeiture of retirement benefits for their prior twenty-five years of employment under the ANC/Steelworkers Pension Plan until each Plaintiff qualified for regular retirement benefits at age sixty-two. See id. ¶ 38.

The Complaint alleges that none of the Plaintiffs received a written denial of benefits in response to their applications for benefits. Accordingly, they sought to rectify this through writings to the Unions, ANC and government officials. See id. ¶¶ 28 & 40. Eventually, the Plaintiffs sought the formal aid of the Steelworkers and on September 14, 1994, the union demanded arbitration on behalf of the Plaintiffs. See id. ¶ 46. The Plaintiffs allege, however, that the Steelworkers failed to contact the ANC representative to schedule the arbitration and the dispute was never arbitrated. After other unsuccessful efforts to resolve this matter, the Plaintiffs filed suit in this Court on February 18, 1997. They sued ANC to recover pension benefits and for breach of fiduciary duty. Adopting the Report and Recommendation of Magistrate Judge Thomas J. Reuter, this Court dismissed the Plaintiffs' wrongful denial of benefits claim without prejudice for failure to exhaust administrative remedies and entered judgment for ANC on the breach of fiduciary duty claim because it was time-barred. The United States Court of Appeals for the Third Circuit affirmed the grant of summary judgment on appeal. While the matter was being decided by the Third Circuit, and subsequent thereto as well, the Plaintiffs made numerous demands to ANC and the Unions to initiate arbitration. Neither ANC nor the Unions agreed to arbitrate the Plaintiffs' claims. Therefore, on June 21, 1999, the Plaintiffs filed suit in this Court a second time. In Count I they alleged that ANC, as the plan administrator, wrongfully denied

them pension benefits. Count II alleged that the Unions breached their fiduciary duties in violation of ERISA by failing to initiate arbitration on behalf of the Plaintiffs. ANC and the Unions' subsequent motions to dismiss were denied and granted, respectively. Thereafter, the remaining parties filed the instant cross-motions for summary judgment.

II. STANDARD OF REVIEW

Under Federal Rule of Civil Procedure 56(c), summary judgment “shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c). This Court is required, in resolving a motion for summary judgment pursuant to Rule 56, to determine whether “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). In making this determination, the evidence of the nonmoving party is to be believed, and the district court must draw all reasonable inferences in the nonmovant’s favor. See id. at 255. Furthermore, while the movant bears the initial responsibility of informing the court of the basis for its motion, and identifying those portions of the record which demonstrate the absence of a genuine issue of material fact, Rule 56(c) requires the entry of summary judgment “after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.” Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986).

III. DISCUSSION

The Plaintiffs allege in Count I of their Complaint that the Defendants wrongfully denied them the full extent of their early retirement benefits in violation of 29 U.S.C. § 1132(a)(1)(B). This provision of ERISA, which permits the recovery of benefits due an employee, requires the Court to review the Defendants' decision to deny benefits. Cases alleging wrongful denial of benefits are "to be reviewed under a de novo standard unless the benefit plan gives the administrator or fiduciary discretionary authority to determine eligibility for benefits or to construe the terms of the plan." Firestone Tire & Rubber Co. v. Bruch, 489 U.S. 101, 115 (1989). In those circumstances, the plan administrator's action is reviewed under an arbitrary and capricious standard. See Abnathya v. Hoffmann-LaRoche, 2 F.3d 40, 44 (3d Cir. 1993). Neither party argues, and the Court can find no indication, that either of the instant pension plans grant discretionary authority to ANC as the plan administrator. Accordingly, the Court's review of ANC's action in this case is de novo. When reviewing an administrator's decision de novo, the Court must make an independent assessment of the administrator's decision. See Luby v. Teamsters Health, Welfare & Pension Trust Funds, 944 F.2d 1176, 1184 (3d Cir. 1991). Thus, the relevant inquiry is whether, pursuant to the terms of the pension plans, the Plaintiffs are entitled to early retirement benefits for their years of service at the Hanover plant.

The Defendants argue that the Plaintiffs are receiving the full amount of benefits to which they are presently entitled under the ANC/Machinists Pension Plan and they forfeited their rights to early retirement benefits under the ANC/Steelworkers Pension Plan for their years at Hanover by refusing the offer of SLTE. The Plaintiffs argue, conversely, that they are owed early retirement benefits for the entire twenty-eight years they were employed by ANC. They do not

contend that they are entitled to benefits pursuant to the ANC/Steelworkers Pension Plan. Instead, they allege that when they went to LeMoyne, they became Machinists and were subject only to the terms of the ANC/Machinists Pension Plan. They point to nearly identical provisions in the plans that prohibit simultaneous participation in more than one pension plan. More specifically, the ANC/Steelworkers Pension Plan states, “No Employee covered by this Agreement shall be eligible to enter into participation in any other pension or annuity plan of [ANC].” Pls.’ Mot. for Summ. J. Ex. 8, at 47. The ANC/Machinists Pension Plan similarly provides, “No Employee covered by this Pension Agreement shall be eligible to enter into participation in any other pension or annuity plan of [ANC].” *Id.* Ex. 9, at 45. The Plaintiffs argue that, pursuant to these provisions, when they became Machinists, they were barred from participating in the ANC/Steelworkers Pension Plan, presumably for all purposes including early and regular retirement benefits. Therefore, their entitlement to benefits, as well as the amount thereof, can only be determined in accordance with the ANC/Machinists Pension Plan.

The Court does not agree with the Plaintiffs’ interpretation of the plans’ language. It seems that the provisions relied upon by the Plaintiffs merely prohibit the simultaneous accrual of benefits under two or more of ANC’s pension plans while holding one position in the Company. In other words, provided an individual meets the eligibility criteria under two different plans, he may be entitled to benefits under both plans. He may not, however, accrue pension benefits under both plans for the time spent at an individual position. Here, the Court finds that because the Plaintiffs were, at separate and distinct times, “Employees” under both

plans, they are entitled to benefits, in some form, under both pension plans.¹ It is the nature of the benefits immediately due, however, that is in issue here.

Turning first to the ANC/Steelworkers Pension Plan, the question is what benefits, if any, are owed to the Plaintiffs pursuant to that plan. The only issue in this regard is whether the Plaintiffs are entitled to Rule-of-65 early retirement benefits as the parties do not dispute the

¹ Under the terms of the ANC/Machinists Pension Plan, an “Employee” is entitled to retirement benefits and the term is defined as “an employee in the bargaining units covered by the Labor Agreement, employed in a[n ANC] plant in the United States.” Pls.’ Mot. for Summ. J. Ex. 9, at 19. The “Labor Agreement” is “the collective bargaining agreement between [ANC] and the [Machinists] which may be in effect at the particular time.” *Id.* Accordingly, employees of ANC employed in Machinists facilities are eligible for retirement benefits pursuant to the ANC/Machinists Pension Plan.

Similarly, pursuant to the terms of the ANC/Steelworkers Pension Plan, “Employees” are entitled to the various forms of retirement benefits provided and an “Employee” is defined as “an employee of [ANC] in one of the bargaining units covered by the Master Agreement.” *Id.* Ex. 8, at 22. The Master Agreement is the “collective bargaining agreement which has been so designated by agreement of [ANC] and the [Steelworkers] and which is in effect at the time of the Employee’s retirement.” *Id.* Therefore, individuals employed by ANC in Steelworkers facilities are eligible for retirement benefits pursuant to the ANC/Steelworkers Pension Plan.

In the present case, over the course of their employment with ANC, the Plaintiffs were both. In other words, when they worked at the Hanover facility, they were Employees as that term is defined by the ANC/Steelworkers Pension Plan and therefore were entitled to the retirement benefits provided by that plan to which they were otherwise qualified. Similarly, when the Plaintiffs worked at the LeMoyne facility, they were Employees as that term is defined by the ANC/Machinists Pension Plan and therefore were entitled to those retirement benefits, to which they were otherwise qualified, provided by that plan. Therefore, by virtue of the fact that the Plaintiffs have been “Employees” under both plans, they are entitled to those benefits to which they otherwise qualify under both plans.

That the Plaintiffs are still covered by the terms of the ANC/Steelworkers Pension Plan is further evidenced, albeit analogously, by the plans’ treatment of employees who leave ANC altogether. So long as the former employee has at least ten years of employment with ANC, he is entitled to a pension benefit payable when he reaches the appropriate age, notwithstanding the fact that he is no longer employed by the company. *See id.* Ex. 8, at 30, *id.* Ex. 9, at 6. While the Plaintiffs worked for ANC for twenty-eight years, when they became Machinists, like terminated employees, they were no longer Employees under the ANC/Steelworkers Pension Plan. Nonetheless, they are similarly entitled to pension benefits under that plan when they reach the appropriate age.

Plaintiffs' present ineligibility for the other types of pension benefits offered by the plan. As noted above, an individual is eligible to receive Rule-of-65 benefits when the sum of his age and at least twenty years of employment equals sixty-five, so long as the employee has been on layoff or absent with a physical disability for two years and has not refused an offer of SLTE. The parties do not dispute that the sum of the Plaintiffs' respective ages and years of service equals at least sixty-five. The Defendants argue, however, that the Plaintiffs were offered SLTE during the two-year period following their layoff, but that it was rejected. Accordingly, the Plaintiffs waived their rights to Rule-of-65 benefits under the ANC/Steelworkers Plan.

The parties do not appear to argue, and the Court finds, that all of the elements of SLTE have been met here.² The Plaintiffs' primary arguments that the offer of employment at the

² According to the terms of the ANC/Steelworkers Pension Plan, a job offered by ANC will constitute SLTE if:

- (1.) The employee is physically qualified to do the job; and
- (2.) The employee has the ability and skills required to perform the job or has the ability to absorb such training for the job as is to be offered and as is necessary to enable the employee to perform the job satisfactorily; and
- (3.) The job offered is not temporary employment or employment known to be of limited duration; and
- (4.) In the case of a salaried employee, the job offered is of a technical or clerical nature; and
- (5.) In the case of a production or maintenance employee, the job offered is not in a salaried bargaining unit unless the employee has had significant work experience with the company of a technical or clerical nature during the five-year period preceding his last day worked; and
- (6.) The job offered is in a bargaining unit covered by the Master Agreement;
- (7.) Except as is provided in paragraphs B, C, or D below [dealing with alternate plant locations], the job offered is at the employee's home plant, including a job which the employee is not required to accept under applicable seniority agreements or understandings,

Lehigh plant was not SLTE seem to relate more toward why they are not covered by this plan at all, an issue previously addressed. Accordingly, the Court finds that ANC offered the Plaintiffs SLTE. Thus, the Plaintiffs' subsequent rejection of that offer made them ineligible for Rule-of-65 retirement under the ANC/Steelworkers Pension Plan. Summary judgment is therefore granted in favor of the ANC/Steelworkers Pension Plan and against the Plaintiffs.

As for the ANC/Machinists Pension Plan, the Court need only address the Plaintiffs' entitlement to 65/25 Rule retirement benefits. An individual is eligible for 65/25 Rule retirement benefits if he has at least twenty-five years of Accredited Service, his age plus the number of years of Accredited Service equals sixty-five or more and he has been on layoff or physical disability for two continuous years. See id. Ex. 9, at 8. The parties do not dispute that upon the Plaintiffs' retirement from the LeMoyne plant, all of these elements were met. See id. Ex. 1, ¶ 36. They disagree, however, as to the amount of benefits owed. The crux of their dispute seems to be over whether the Plaintiffs are entitled to 65/25 Rule retirement benefits for the twenty-eight years they were employed, in various unions, at ANC, or whether they are entitled only to benefits for their three years as Machinists.

The ANC/Machinists Pension Plan deals expressly with situations such as this. It

provided there is no employee with a greater right to such job under applicable seniority agreements or understandings who desires assignment to such job.

Id. Ex. 8, at 51-52.

provides:

Section 8. *Service With The Company Outside Bargaining Unit or With Affiliate.*

An individual shall receive credit in respect of his periods of employment . . . with [ANC] outside the bargaining unit or with an Affiliate as if he had been employed in the bargaining unit during such periods in determining (I) his ERISA Service and (ii) his Accredited Service for all purposes of the Plan other than the determination of his accrued pension benefits. However, his Accredited Service . . . shall be computed without regard to any such periods of employment with [ANC] outside the bargaining unit or employment with an Affiliate for purposes of computing the amount of any accrued pension to which he becomes entitled under the Plan

Id. Ex. 9, at 45-46. Therefore, an employee who worked for ANC, only in a facility represented by a different union, will generally receive credit for that time, as though he was represented by the Machinists. However, he will not receive credit for that time when determining his “accrued pension benefit,” or put differently, “for purposes of computing the amount of accrued pension to which he becomes entitled under the Plan.” Id. at 46. Neither “accrued pension” nor “accrued pension benefit” are defined terms under the plan. Accordingly, the Court can look to their plain meaning in interpreting the plan. Doing such, the Court finds that accrued pension benefit means the pension benefits that an individual has earned but not yet received, or, in other words, the amount of pension benefits to which the individual is otherwise entitled to under the plan. Therefore, the Plaintiffs’ years of service at the Hanover plant count for all purposes under the ANC/Machinists Pension Plan except for calculating the amount of pension they are entitled to under that plan. Only their years of service at LeMoyne count in determining the amount of pension benefit the Plaintiffs are entitled to under the 65/25 Rule. As the Plaintiffs are currently receiving this amount, the Court finds the Defendants’ interpretation of the pension plan to be correct.

The Plaintiffs also argue in support of their motion that ANC made oral representations effectively guaranteeing them full early retirement pension benefits despite their refusal of the SLTE offer. Specifically, when the offer of SLTE was made, the Plaintiffs claim that several ANC personnel representatives assured them that they would be given credit for their years of service at Hanover in determining their pension, despite a refusal of the SLTE. Their understanding was that, as an incentive for them to work at LeMoyne, ANC would consider both pension plans in determining their benefits. To them, this meant that they would be entitled to early retirement benefits for their entire tenure at ANC.

Pursuant to ERISA, however, “[e]very employee benefit plan shall be established and maintained pursuant to a written instrument.” 29 U.S.C. § 1102(a)(1). The Third Circuit has consistently held that this provision acts “as a strong integration clause, statutorily inserted in every plan document covered by the fiduciary duty provisions.” In re New Valley Corp., 89 F.3d 143, 149 (3d Cir. 1996). Section 1102(a)(1) essentially “makes the plan document the entire agreement of the parties and bars the introduction of parol evidence to vary or contradict the written terms.” Id. Because the written terms of the plan document control, regardless of the nature or content of ANC’s oral statements to the Plaintiffs they cannot form the basis for a claim under ERISA.

Finally, the Plaintiffs attempt in their summary judgment motion to raise a claim for equitable estoppel. This appears to be the second time, however, that the Plaintiffs have attempted to assert this claim in their summary judgment motion without first raising it in the Complaint. As the Court previously held in adopting the Report and Recommendation of Magistrate Judge Rueter the first time this case was filed, because the Plaintiffs did not raise this

claim in the Complaint, they are barred from doing so now.

Accordingly, summary judgment is granted in favor of ANC, the ANC/Steelworkers Pension Plan and the ANC/Machinists Pension Plan and against the Plaintiffs.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAYMOND J. MURREN et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
AMERICAN NATIONAL CAN	:	
COMPANY et al.	:	NO. 99-CV-3136

ORDER

AND NOW, this day of July, 2000, in consideration of the Motion for Summary Judgment filed by the Defendants, American National Can Company, the pension plan between American National Can Company and the United Steelworkers of America, and the pension plan between American National Can Company and the International Association of Machinists and Aerospace Workers (Doc. No. 18), the Motion for Summary Judgment filed by the Plaintiffs, Raymond Murren, Carl Gobrecht and Larry Walton (Doc. No. 17), and the responses of the parties thereto, it is ORDERED that:

- (1) The Defendants' Motion for Summary Judgment is GRANTED.
- (2) The Plaintiffs' Motion for Summary Judgment is DENIED.
- (3) Judgment is ENTERED in favor of American National Can Company, the pension plan between American National Can Company and the United Steelworkers of America, and the pension plan between American National Can

Company and the International Association of Machinists and Aerospace Workers
and against Raymond Murren, Carl Gobrecht and Larry Walton.

BY THE COURT:

JAMES MCGIRR KELLY, J.