

Bloomberg BNA Pension & Benefits Daily™

Source: Pension & Benefits Daily: News Archive > 2017 > July > 07/31/2017 > Top News > Retiree Benefits: Whirlpool's Retiree Health Benefit Cuts Go Down the Drain

Retiree Benefits

Whirlpool's Retiree Health Benefit Cuts Go Down the Drain



By Jacklyn Wille

Whirlpool Corp. retirees won a major battle in their long-running quest for company-provided health benefits as a federal judge blocked the company from raising premiums, deductibles, and other cost-sharing requirements (*Zino v. Whirlpool Corp.*, N.D. Ohio, No. 5:11-cv-01676-BYP, 7/27/17).

After previously finding that Whirlpool owed lifetime health benefits to many of its retirees, the judge ruled July 27 that Whirlpool couldn't fulfill this obligation if it carried out its plan to raise premiums, deductibles, copayments, and out-of-pocket maximums. The parties to the relevant collective bargaining agreements couldn't have intended to give Whirlpool latitude to make these modifications, because the agreements expressly established specific premiums, deductibles, and other terms while providing no mechanism for altering them, the judge said.

Whirlpool argued that prior decisions granting the retirees vested lifetime health benefits had to be reconsidered in light of the U.S. Court of Appeals for the Sixth Circuit's 2016 decision denying similar benefits to retirees of Moen Inc. The judge disagreed in a separate order issued July 27, saying that retiree benefit disputes often turn on language in specific collective bargaining agreements that must be read in context, making it difficult to draw clear parallels from one case to another.

The two rulings are examples of courts grappling with the U.S. Supreme Court's 2015 decision in *M&G Polymers USA, LLC v. Tackett*, which held that disputes over collectively bargained retiree health benefits should be resolved through ordinary principles of contract interpretation. That was a departure from the "thumb on the scale" in favor of retirees previously used by some courts, particularly the Sixth Circuit.

The Sixth Circuit recently signaled that the proper inquiry is fact-specific and will depend largely on the language of the relevant bargaining agreements. In April, the court issued a trio of decisions in retiree health disputes involving Kelsey-Hayes Co., CNH Industrial N.V., and Meritor Inc. Those cases—all decided on the same day—had different outcomes that appeared driven largely by differences in bargaining agreement language.

In rejecting Whirlpool's proposed modifications to retiree health benefits, the judge followed two Sixth Circuit rulings in the dispute over health benefits for CNH retirees. Those decisions—from 2009 and 2012—consider how and when an employer can modify retiree health benefits that have vested pursuant to a bargaining agreement.

Judge Benita Y. Pearson of the U.S. District Court for the Northern District of Ohio wrote the decision. In addition to blocking Whirlpool's proposed benefit cuts through a permanent injunction, Pearson ordered the company to reimburse retirees for any out-of-pocket costs they had to pay as a result of the cuts.

Feinstein Doyle Payne & Kravec, B Zimmerman Law, and Allen Schulman & Associates represented the retirees. Baker & McKenzie and Black McCuskey Souers & Arbaugh represented Whirlpool.

To contact the reporter on this story: Jacklyn Wille in Washington at jwille@bna.com

To contact the editor responsible for this story: Jo-el J. Meyer at jmeyer@bna.com

For More Information

Text of the ruling is at

http://www.bloomberglaw.com/public/document/Zino_Jr_et_al_v_Whirlpool_Corporation_et_al_Docket_No_511cv01676_/5?doc_id=X1Q6NSSE2JO2&fmt=pdf.

Snapshot

- Judge blocks Whirlpool's attempt to scale back health coverage for retirees
- Bargaining agreement prevented Whirlpool from making proposed cuts
- Ruling is latest in string of retiree health benefit disputes following 2015 U.S. Supreme Court decision

Contact us at <http://www.bna.com/contact-us> or call 1-800-372-1033

ISSN 1523-5718

Copyright © 2017, The Bureau of National Affairs, Inc.. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright Policy.