



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

MAY 03 2005

Re: [redacted] Case 200730, Corbin, Ltd. ("Company")
Pension Plan for Piece Rated and Hourly Employees
Represented by Local 1044 (ACTWU) ("Plan")

Dear [redacted]

We have reviewed your appeal of PBGC's May 26, 2004 determination that you are not entitled to a disability retirement benefit. As explained below, we changed PBGC's determination and found you are entitled to a disability retirement benefit.

Determination and Appeal

In its letter, PBGC stated that you are not entitled to a disability benefit, because the Plan terminated on April 7, 2003, but your Social Security Administration ("SSA") disability benefit was not awarded until May 1, 2003.

PBGC informed you that, although you are not entitled to a disability benefit, you are entitled to a normal or early retirement benefit. PBGC enclosed a Benefit Statement showing you the estimated amount of your normal and early retirement benefits. This Benefit Statement indicated that you terminated employment on June 15, 2001.

In your June 25, 2004 appeal, you stated that you did not terminate employment on June 15, 2001. You said that you were laid off November 15, 2002, because there was no work. You stated that you applied for SSA disability on September 15, 2002 and that your application was approved on May 1, 2003.

Date of Termination of Employment

A review of your file indicates that the June 15, 2001 date of termination shown on your Benefit Statement represents an estimated date of termination of active employment (used for the purpose of estimating your years of active service).

PBGC's audit reports that the Company ceased to conduct business and terminated all of its employees in March 2003. In your appeal, you stated that you were laid off on November 15, 2002.

Thus, the Board found that your employment relationship with the Company terminated in March 2003.

Discussion

PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 Code of Federal Regulations section 4022.4(a)(3)) provides that in order to establish entitlement to a PBGC guaranteed benefit, a participant must have satisfied the conditions of a plan necessary to establish the right to receive the benefit (other than application for the benefit, satisfaction of a waiting period described in the plan, or retirement) on or before the plan's date of termination.

The Appeals Board found, based on all the facts and circumstances of your case, that the disabling event occurred before your employment relationship with the Company terminated in March 2003.

Section 5.3 of the Plan requires as a condition of *disability retirement* that "there has been a determination under the Federal Social Security Act that the onset date of such disability is within four months of the last date of employment with the employer," The Board found that your "last date of employment with the employer" was in March of 2003. According to your SSA Notice of Award, your disability onset date was May 1, 2003. Therefore, the Board found that you met the Plan's requirement that your SSA disability onset date must be within four months of your termination of employment.

The Board further found the four-month period between termination of employment and the SSA disability onset date to be in the nature of a waiting period under the facts of this case. As noted above, PBGC's regulation excludes completion of "a waiting period described in the plan" from the conditions that a participant must have satisfied as of plan termination in order to become entitled to a guaranteed benefit. So, because the Appeals Board found that the disabling event occurred before the Plan terminated, you are entitled to a guaranteed disability retirement benefit under the Plan.

Decision

Applying the Plan's provisions and PBGC's regulation to the facts in your case, the Board decided that you are entitled to a guaranteed disability retirement benefit. This decision is the agency's final action regarding your entitlement to a disability benefit.

PBGC will send you a new determination regarding the amount, form, and effective date of your disability benefit. The new determination will include a new right of appeal. In the meantime, if you need other information from PBGC, please call the Customer Contact Center at 1-800-400-7242.

Sincerely,

A handwritten signature in cursive script that reads "Michel Louis".

Michel Louis
Member, Appeals Board