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

NOV 25 2002

[Redacted]

Re: Appeal [Redacted] Republic Retirement Plan (the
"Plan")

Dear [Redacted]

The Appeals Board reviewed your appeal of PBGC's February 21, 1997 determination of your benefit under the Plan. For the reasons stated below, the Appeals Board found that you presented no basis for changing PBGC's determination.

Determination and Appeal

PBGC's determination letter said that you are entitled to a guaranteed monthly benefit of \$704.11 payable as a Straight Life Annuity ("SLA"), which provides a benefit for your lifetime and no survivor benefit, starting on May 1, 2004, your earliest unreduced retirement date under the Plan. It said that you could elect to start receiving your benefit as early as May 1, 2000 but that your benefit would be reduced to reflect the longer period of payment. The letter also said that if you were married when you started receiving your benefit, you would receive a reduced monthly amount payable as a Joint and 50% Survivor Annuity ("J&50%SA"), which provides a benefit for your lifetime, and if you die first, your wife would receive one-half of the benefit you were receiving. The letter noted that you could choose to waive the J&50%SA with your wife's written consent (which you did on April 10, 2000), in which case, your benefit would be payable as an SLA. With your determination letter, PBGC included a Benefit Statement to show how PBGC calculated your benefit.

PBGC's files show that you elected to start receiving your benefit on May 1, 2000. Since that date, PBGC has been paying you a monthly benefit of \$396.20 as a SLA.

In your March 3, 1997 appeal, you said that according to your calculations, you are entitled to a monthly benefit of \$837.81 at age 62 instead of the \$704.11 amount PBGC determined you are entitled to receive. You said that by totaling your pay stubs, you calculated higher five-year totals, namely, (1) \$226,387 or \$3,773.12 per month, from October 1, 1981 through December 31, 1985

(the Date of the Benefit Freeze), and (2) \$227,264.46 or \$3,787.74 per month, from October 1, 1981 through September 30, 1986. Also, you said that LTV Steel Corporation ("LTV") gave you a copy of your base pay record and that for the two periods mentioned above you calculated your total earnings to be \$230,156 or \$3,835.93 per month, and \$226,973.46 or \$3,782.89 per month. Your appeal requested recalculation of your pension benefit using this salary information.

Discussion

Enclosures 1 and 2 contain the Plan provisions that PBGC used to calculate your Plan-defined Average Monthly Earnings ("AME") under the 1983 Plan and the 1986 Plan, respectively. Please note that the Plan's definition of "earnings" used in calculating your pension benefit does not include all of your actual earnings during the applicable time periods. Enclosure 3 shows how PBGC calculated your monthly Plan-defined earnings based on your salary history (Enclosure 4), the Plan's Cost-of-Living Adjustments (Enclosure 5), and LTV's calculation of your earnings (Enclosure 6). After reviewing the calculations, the Appeals Board found that PBGC correctly calculated your AME under both the 1983 Plan and the 1986 Plan.

Your appeal also said that June 10, 1964 is your correct hire date and not July 1, 1968, which is the date shown on your PBGC Benefit Statement. You included several pay stubs from Republic Steel to verify your employment during this period (1964 through 1968). With your permission, the Appeals Board obtained a copy of your Social Security Earnings record. See Enclosure 7.

Both the 1983 Plan and the 1986 Plan define "continuous service" as service calculated from the Employee's

"last hiring date (this means in the case of a break in continuous service, continuous service shall be calculated from the date of reemployment following last unremoved break in continuous service) in accordance with the following provisions; provided, however, that the last hiring date shall be based on the practice in effect at the time the break occurred;..." (emphasis ours).

Your Social Security Earnings records show that you had no earnings with Republic Steel during the last quarter of 1967 and the first two quarters of 1968. Under the original 1970 Plan document (see Enclosure 8), the Plan did not provide for removal of a break-in-service at all if your break-in-service was the result

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of quitting. On the other hand, if you were discharged, a break-in-service would be removed if you were reemployed within six months. The six-month requirement changed to 12 months sometime after you were reemployed, and thus, does not apply to your situation. The Board concluded, in agreement with your LTV record card (see Enclosure 4), that your 9-month break-in-service was not removable under the practice in effect at the time you incurred your break-in-service in 1967. Thus, your last hiring date (July 1, 1968) is your date of hire for purposes of calculating your pension benefit payable under the Plan.

Decision

Having applied Plan provisions to the facts in your case, we found that you presented no basis for changing PBGC's determination.

This decision is the final agency action on the issues you raised in your appeal. You have exhausted your administrative remedies, and may, if you wish, seek court review of this decision.

If you have additional questions, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,



Michel Louis
Appeals Board Member

Enclosures (8)