

CP36A89F9-022A-4046-8



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

[Redacted]

August 11, 2003

Re: Appeal [Redacted]  
Eastern Airlines, Inc. Fixed Benefit Retirement Income  
Plan for Pilots (the "Plan")

Dear [Redacted]

The Appeals Board has considered your appeal of PBGC's determination of your benefit options. As explained below, the Board decided your appeal is untimely. Therefore, the Board will not decide how the issues you raised apply to you. Also, under the Settlement Agreement, PBGC will continue paying your current benefit, which is your Settlement Benefit temporarily reduced to repay your past overpayments.

PBGC's Determination and Settlement Agreement

PBGC's August 28, 1998 determination offered you two options under an ALPA-PBGC Settlement Agreement:

- **PBGC Benefit - "19.5936% of PC5"** Receive \$1,605.86 per month with full rights to timely appeal PBGC's determination, or
- **Settlement Benefit - "34% of PC5"** Receive \$1,670.55 per month with limited rights to timely appeal. To receive the Settlement Benefit, you may appeal only issues relating to your own factual circumstances.

PBGC explained you have been overpaid under both options, and that PBGC's regulations allow 45 days to appeal PBGC's determination. See Enclosure 1.

Discussion

*Untimely-Filed Appeal*

Your February 8, 1999 appeal was not filed within the required 45 days - your letter was dated more than 5 months after PBGC's August 28, 1998 determination. You stated you inadvertently returned to Attorney [Redacted] an appeal he prepared instead of sending that appeal letter to PBGC. However, you did not indicate when you discovered this error. Furthermore, the Appeals Board has still not received such a letter from either you or [Redacted]. The Board concluded you have not presented a basis for the Board to review your untimely-filed appeal. See 29 Code of Federal Regulations 4003.5.

*PBGC Must Pay You the Settlement Benefit*

The Settlement Agreement requires PBGC to pay the larger Settlement Benefit unless: i) You file a timely appeal with PBGC's

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Appeals Board, or ii) You challenge PBGC's determination in court. See Enclosure 2 section 2.4. As noted above, you have not filed a timely appeal, nor has any court action been initiated on your behalf. Therefore, PBGC must pay you the Settlement Benefit. Thus, PBGC is correctly paying you \$1,503.50 per month (\$1,670.55 - 10% reduction for past overpayments).

*The \$367.20 Per Month Age-65 Reduction You Questioned*

You questioned whether PBGC correctly determined your full Plan benefit includes a \$367.20 per month reduction beginning at age 65. In deciding timely-filed appeals which were otherwise similar to yours, the Board applied rulings in a prior Appeals Board decision. In that decision, the Board rejected arguments disputing the \$367.20 per month reduction beginning at age 65. See Enclosure 3.

Decision

Having applied PBGC's regulations and the Settlement Agreement to the facts in your case, the Board decided PBGC will continue paying your Settlement Benefit, temporarily reduced for your past overpayments. This letter concludes your administrative remedies with respect to PBGC's August 28, 1998 determination. We appreciate your patience while we carefully considered your appeal.

Sincerely,

*William D. Ellis*

William D. Ellis  
Appeals Board Member

Enclosures:

- 1) Copy of PBGC's August 28, 1998 determination (18 pages)
- 2) Copy of the ALPA-PBGC Settlement Agreement (12 pages)
- 3) Redacted copy of prior Appeals Board decision dated July 17, 2000 (5 pages, without Enclosures)

cc: