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Disabled U.S. Workers Say Nortel Can't Cut Off Benefits

Peg Brickley | October 26, 2012

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Lawyers for 215 disabled U.S. employees of Nortel Networks Corp. accused the dissolving telecommunications company of playing "an enormous shell game" with some of its most vulnerable creditors.

Papers filed in the U.S. Bankruptcy Court in Wilmington, Del., by an official committee named to represent Nortel's disabled U.S. workers challenge the company's argument that it can't afford to provide for the group.

Nortel, which raised \$7.8 billion by selling its businesses and patents, says it is entitled to end payments to disabled workers as it prepares to wrap up its corporate existence. In July, Nortel asked to end the disability checks by Dec. 31, as it continues clashing with pensioners in Europe and retirees in the U.S. over how to divide up the cash sitting in bankruptcy coffers.

Nortel says it is entitled to end the disability pay without seeking court permission, but "in an abundance of caution" would go through the motions. The issue is being teed up for trial early next year in the U.S. Bankruptcy Court in Wilmington, which is presiding over Nortel's Chapter 11 bankruptcy.

The one-time telecommunications giant filed for insolvency protection in courts around the world in early 2009 and launched a massive liquidation. A Chapter 11 plan is on file, but until there's a decision on how to split the cash among Nortel's various units, there is no end in sight to the bankruptcy proceeding.

Trading prices on Nortel's debt remain high, a sign that financial investors expect to get 100% of the face amount of debt bought at a discount, plus interest, at the end of the day. Bondholders want Nortel to dispose quickly of the clashes that are delaying the collection of profits.

Courts in Canada have already allowed Nortel to dispense with payments to Canadian disabled workers in decisions that meant severe cuts in benefits. Recently, some of the Canadian former Nortel workers sued trust companies that handled some of the telecommunications company's benefit funds, accusing them of allowing Nortel to bilk employees. The trustees, Northern Trust Co. of Chicago and a unit of the Royal Bank of Canada, have denied wrongdoing.

In the U.S., Nortel has said it was self-insured when it came to taking care of people rendered unable to work. Since there is to be no more Nortel, there can be no more compensation or benefits for disabled workers, according to Nortel.

Papers filed Thursday by the committee for the disabled say it's not so simple. For one thing, lawyers say, there is evidence outside insurance did apply to some of the benefits.

For another, Nortel allegedly repeatedly told disabled workers they would be taken care of until age 65. Nothing in the documents the company gave employees reserves Nortel's right to walk away from this promise once disabled people have relied on it, lawyers for the disabled contend.

Nortel won a fight with a cadre of its U.S. disabled workers over whether court papers naming the recipients of the payments should be sealed. The company said it wanted to protect the privacy of employees. A core group of activists said Nortel was only trying to protect itself from organized resistance by keeping disabled workers from linking up.

Well over half the affected U.S. Nortel employees have sent letters to the bankruptcy court protesting the planned cutoff of disability pay and benefits.

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