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Man To Sue Utility Over \$44K Pension Error

4,000 Retirees Of We Energies Notified Of Similar Miscalculation

MILWAUKEE —

Retirees from one southeast Wisconsin utility are learning that they have been short-changed on their retirement benefits.

We Energies sent a notice to former employees who took early retirement that the utility may have miscalculated their pension payments.

And while the number of We Energies retirees affected is in the thousands, 12 News has learned that businesses across the state have used the same miscalculation, leading to tens of millions of dollars that has been underpaid.

Larry Johnson began his career with the gas company in 1971 and retired five years ago to care for his wife, who had fallen ill. He felt confident in the benefits he had secured with the company.

“I’ll just take them,” he said of his benefits. “Take care of my wife, raise my kids, live happily ever after.”

After his wife passed away, Johnson developed some life-threatening health issues of his own. He was on a transplant list, and then learned he had prostate cancer.

That’s when he learned that We Energies had changed his health coverage. That change made Johnson also question his pension benefits.

Johnson received a letter from a New York lawyer who had had filed a class-action lawsuit claiming the utility had miscalculated pension benefits. The letter said We Energies had shorted him by close to \$44,000, and he was invited to join the suit.

We Energies agreed to pay \$45 million to settle the suit. 12 News has learned that \$14 million was designated to the lawyer, with the remaining \$31 to be split among the retirees who joined the suit.

With nearly 4,000 retirees involved, the average payout came to \$7,500 -- a fraction of what Johnson was told he was owed.

While the miscalculation upset Johnson, the terms of the settlement upset him more.

“Instead of paying a New York lawyer all that money, why don't they just simply recalculate everybody's payout and give them what they got coming?” he asked.

“No one at We Energies was trying in any way to shortchange those employees,” said We Energies spokesman Barry McNulty. He said the calculations used at the time were standard in the industry. We Energies agreed to settle the lawsuit after the formula for calculating those benefits changed.

Attorney Eli Gottesdiener earned a national reputation after he helped the employees of Enron collect \$225 million in pension benefits after the company's collapse. He has filed multimillion dollar lawsuits against several Wisconsin corporations accused of miscalculating pension benefits, including S.C Johnson of Racine, as well as Alliant Energy and Meriter Health Services of Madison.

“We're in the same boat as many law firms,” McNulty said. “Other businesses have had similar situations. Whether it be a manufacturing company or a utility, a number of companies had this great uncertainty for many years until the law had some clarity brought to it.”

Marquette law professor Paul Secunda said the complexity of the pension laws makes calculation errors common.

“It's not as simple as looking through the benefit plan and saying 'Oops, you forgot to carry the 2,” Secunda said. “This is really highly specialized actuarial type of formula.”

Secunda said that the complexity also leaves many employees unaware of what they are missing.

Based on the 4,000 affected employees in just the We Energies case, Secunda was asked how many more victims from other employers could be out there.

“Thousands and thousands,” he said. “There are a lot of lawsuits out there that will never be brought because people either don't know that they're not getting paid what they should be paid, or they're not thinking about it.”

As for Johnson, he opted not to join the class-action suit, saying he can't afford to be paid a fraction of what he is owed. He has hired a lawyer to sue We Energies for the full amount that he was told he was owed.

“I gave them 35 good, loyal years,” he said. “In the end I thought they had treated me fairly. But now I find out I wasn't.”

12 News has learned a handful of other retirees have also questioned the proposed settlement. They are free to hire their own lawyers at the company's expense and notify the federal courts by March 6 of their intentions. If not, they'll be forced to take what they can get.

So how can you find out whether you are receiving the benefits to which you are entitled? Secunda said the law requires companies to provide information to their employees in plain English on how their benefits are calculated. He recommends contacting your benefits administrator to learn more.