

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

LOWELL W. ROGERS,
Plaintiff-Appellant,

v.

AMERICAN ELECTRIC POWER SERVICE
CORPORATION, a New York
corporation; KEMPER INSURANCE
COMPANIES,

Defendants-Appellees.

No. 01-2480

Appeal from the United States District Court
for the Southern District of West Virginia, at Huntington.
Robert C. Chambers, District Judge.
(CA-01-101-3)

Submitted: May 30, 2002

Decided: July 16, 2002

Before WILKINS, MOTZ, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Patrick L. Cottrell, Charleston, West Virginia, for Appellant. John J. Polak, ROSE & ATKINSON, Charleston, West Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Lowell W. Rogers appeals the district court's order granting summary judgment to the Defendants in his action pursuant to the Employee Retirement Income Security Act, 29 U.S.C.A. §§ 1001-1461 (West 1999 & Supp. 2001), for long term disability benefits.

We review the district court's grant of summary judgment de novo, applying the same standards employed by the district court. *Ellis v. Metropolitan Life Ins. Co.*, 126 F.3d 228, 232 (4th Cir. 1997). Where a benefits plan expressly grants to the plan administrator discretionary authority to construe its provisions, as the parties stipulated in this case, the court reviews the decision of the plan administrator under an abuse of discretion standard. *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 115 (1989). Under this deferential standard, the plan administrator's decision will not be disturbed by the court if it is reasonable, even if the court would have independently reached a different decision. *Ellis*, 126 F.3d at 232. A fiduciary's decision is reasonable if supported by substantial evidence. *Lefebvre v. Westinghouse Elec. Corp. Mgmt. Disability Benefits Plan*, 747 F.2d 197, 208 (4th Cir. 1984).

We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. *Rogers v. Am. Elec. Power Serv. Corp.*, No. CA-01-101-3 (S.D.W. Va. Nov. 15, 2001). We grant the motion to submit the case on briefs because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED