

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND DEPARTMENT

Westchester County Correction Officers Benevolent Ass'n v.
Cheverko

112 A.D.3d 842, 978 N.Y.S.2d 60 (2d Dep't 2013) · Decided December 18, 2013

SUMMARY

The Appellate Division reversed an order confirming four arbitration awards granting Westchester County correction officers benefits under General Municipal Law § 207-c. The court held that the awards were indefinite or nonfinal under CPLR 7511 because they did not determine whether each officer had sustained a disability, and remitted the matter for further proceedings.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Mastro, J.E.; Skelos, J.; Balkin, J.; Roman, J.
JURISDICTION	New York
DECIDED	December 18, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Respondents appealed from an order granting a petition under CPLR article 75 to confirm four arbitration awards and denying their cross petition, in part, to vacate the awards.
STANDARD OF REVIEW	Review of the arbitration awards for statutory vacatur under CPLR 7511, including whether the awards were indefinite or nonfinal as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kevin M. Cheverko, as Commissioner of the Westchester County Department of Corrections, Westchester County Department of Corrections, Westchester County v. Westchester County Correction Officers Benevolent Ass'n, Michael Simmons, Alex Ciampa, Michael Mucciolo, Allison Hoard

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the four arbitration awards were indefinite or nonfinal under CPLR 7511 because they awarded General Municipal Law § 207-c benefits without determining whether each correction officer had sustained a disability.
2. Whether the awards should be confirmed or vacated and remitted to the arbitrator for further proceedings.

HOLDINGS

1. The awards were indefinite or nonfinal and subject to vacatur because they did not address whether each officer sustained a disability, an essential issue underlying entitlement to General Municipal Law § 207-c benefits.

KEY QUOTATIONS

“An arbitration award is indefinite or nonfinal for purposes of CPLR 7511 and subject to vacatur “only if it leaves the parties unable to determine their rights and obligations, if it does not resolve the controversy submitted or if it creates a new controversy”” (843)

“General Municipal Law “[s]ection 207-c provides benefits to officers who are disabled ‘in the performance of or ‘as a result of their job duties”” (843)

FACTUAL BACKGROUND

Michael Simmons, Alex Ciampa, Michael Mucciolo, and Allison Hoard, correction officers, sought benefits under General Municipal Law § 207-c. Arbitrators issued four awards dated March 11, March 14, May 7, and May 8, 2011, awarding the officers § 207-c benefits. The awards did not determine whether each officer had sustained a disability, a necessary condition for entitlement to those benefits.

PROCEDURAL HISTORY

The Supreme Court, Westchester County, entered an order on March 15, 2012, confirming four arbitration awards that determined four correction officers were entitled to benefits under General Municipal Law § 207-c and denying the appellants' cross petition to vacate the awards. The Appellate Division reversed, denied confirmation, granted the branch of the cross petition seeking vacatur, and remitted the matter for further proceedings before the arbitrator.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Supreme Court, Westchester County, must remit the matter to the arbitrator for further proceedings and a determination whether each officer sustained a disability.

CASES CITED

- Matter of Meisels v Uhr, 79 N.Y.2d 526, 536 (1992)
- Matter of Board of Educ. of Amityville Union Free School Dist. v Amityville Teacher's Assn., 62 A.D.3d 992, 993 (2009)
- Matter of White v County of Cortland, 97 N.Y.2d 336, 339 (2002)

OPINION

Westchester County Correction Officers Benevolent Ass'n v. Cheverko 112 A.D.3d 842

PER CURIAM.

In a proceeding pursuant to CPLR article 75 to confirm four arbitration awards dated March 11, 2011, March 14, 2011, May 7, 2011, and May 8, 2011, determining that Michael Simmons, Alex Ciampa, Michael Mucciolo, and Allison Hoard, respectively, are entitled to benefits pursuant to General Municipal Law § 207-c, Kevin M. Cheverko, as Commissioner of the Westchester County Department of Corrections, the Westchester County Department of Corrections, and Westchester County appeal from an order of the Supreme Court, Westchester County (Walker, J.), entered March 15, 2012, which granted the petition to confirm the arbitration awards dated March 11, 2011, March 14, 2011, May 7, 2011, and May 8, 2011, in favor of Michael Simmons, Alex Ciampa, Michael Mucciolo, and Allison Hoard, respectively, and denied their cross petition, inter alia, to vacate those awards. Ordered that the order is reversed, on the law, with costs, the petition to confirm four arbitration awards dated March 11, 2011, March 14, 2011, May 7, 2011, and May 8, 2011, is denied, that branch of the cross petition which was to vacate those awards is granted, and the matter is remitted to the Supreme Court, Westchester County, to remit the matter to the arbitrator for further proceedings consistent herewith. An arbitration award is indefinite or nonfinal for purposes of CPLR 7511 and subject to vacatur “only if it leaves the parties unable to determine their rights and obligations, if it does not resolve the controversy submitted or if it creates a new controversy” (Matter of Meisels v Uhr, 79 NY2d 526, 536 [1992]; see Matter of Board of Educ. of Amityville Union Free School Dist. v Amityville Teacher’s Assn., 62 AD3d 992, 993 [2009]). Here, Corrections Officers Michael Simmons, Alex Ciampa, Michael Mucciolo, and Allison Hoard sought benefits pursuant to General Municipal Law § 207-c. General Municipal Law “[s]ection 207-c provides benefits to officers who are disabled ‘in the performance of or ‘as a result of their job duties’” (Matter of White v County of Cortland, 97 NY2d 336, 339 [2002]). The arbitration awards awarding them benefits pursuant to General Municipal Law § 207-c were indefinite or nonfinal for purposes of CPLR 7511 and must be vacated, since those awards did not address whether each officer sustained a disability. Accordingly, we reverse the order, deny the petition to

confirm the four *843subject arbitration awards, grant that branch of the cross petition which was to vacate those awards, and remit the matter to the Supreme Court, Westchester County, to remit the matter to the arbitrator for further proceedings and a determination as to whether each officer sustained a disability. Mastro, J.E, Skelos, Balkin and Roman, JJ., concur.

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