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869 N.Y.S.2d 840  
57 A.D.3d 1476, 869 N.Y.S.2d 840, 2008 N.Y. Slip Op. 10370  
(Cite as: 57 A.D.3d 1476, 869 N.Y.S.2d 840)

Page 1

Supreme Court, Appellate Division, Fourth Department, New York.

In the Matter of BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION, INC., LOCAL 282, IAFF, AFL-CIO-CLC, Petitioner-Appellant,  
v.

CITY OF BUFFALO, Respondent-Respondent.

Dec. 31, 2008.

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered September 6, 2007 in a proceeding pursuant to CPLR article 75. The order denied the petition to confirm the arbitration award and granted respondent's motion to vacate the arbitration award.

Sammarco, Mattacola & Sammarco, LLP, Buffalo (Aaron E. Kaplan of Counsel), for petitioner-appellant.

Hodgson Russ LLP, Buffalo (Joshua Feinstein of Counsel), for respondent-respondent.

MEMORANDUM:

Supreme Court properly granted respondent's motion to vacate the arbitration award in favor of petitioner. An arbitration award shall be vacated upon the application of a party who participated in the arbitration where the rights of that party are prejudiced by an arbitrator who exceeded the authority granted to him or her under the applicable collective bargaining agreement (see CPLR 7511[b][1][iii]; *Matter of Buffalo Teachers Fedn., Inc. v. Board of Educ. of City School Dist. of City of Buffalo*, 50 A.D.3d 1503, 1506, 855 N.Y.S.2d 775; see also *Matter of Buffalo Professional Firefighters Assn. Local 282 [City of Buffalo]*, 12 A.D.3d 1087, 784 N.Y.S.2d 472). Here, the arbitrator "exceeded his authority by modifying the [collective bargaining] agreement [between the

parties] so as to grant [respondent's] employees a right not provided to them by the agreement" (*Matter of Manhattan & Bronx Surface Tr. Operating Auth. v. Transport Workers Union of Am.*, 182 A.D.2d 624, 625, 582 N.Y.S.2d 230; see *Matter of Buffalo Teachers Fedn.*, 50 A.D.3d at 1506-1507, 855 N.Y.S.2d 775; *Matter of Manhattan & Bronx Surface Tr. Operating Auth. v. Transport Workers Union of Am., AFL-CIO, Local 100*, 182 A.D.2d 626, 627-628, 582 N.Y.S.2d 227, *lv. denied* 80 N.Y.2d 755, 588 N.Y.S.2d 823, 602 N.E.2d 231).

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

CENTRA, J.P., PERADOTTO, GREEN, and PINE, JJ., concur.

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