

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY
PRESENT: HON. JOAN B. LOBIS PART 6

Justice

UNITED FEDERATION OF TEACHERS, LOCAL 2,
AFT, AFL-CIO,

INDEX NO. 652592/13

Petitioner,

MOTION DATE 10/09/13

- v -

MOTION SEQ. NO. 001

NEW YORK CITY DEPARTMENT OF EDUCATION,
f/k/a BOARD OF EDUCATION OF THE CITY
SCHOOL DISTRICT OF THE CITY OF NEW YORK,
et al.,

MOTION CAL. NO.

Respondents.

The following e-filed papers were read on this petition to confirm arbitration award.

Notice of Petition / Order to Show Cause – Affidavits – Exhibits
Answering Affidavits – Exhibits
Replying Affidavits

PAPERS NUMBERED

1-5

8-9

10-12

Petitioner, United Federation of Teachers, Local 2, AFT, AFL-CIO (Union), brings this action pursuant to Article 75 of the Civil Practice Law and Rules. The Union seeks an order confirming an arbitration award dated May 31, 2013 (Award). The Union brought an arbitration proceeding against the New York City Department of Education (DOE) because the DOE's representative repeatedly refused to meet with and provide information to one of the Union's Chapter Leaders. In the Award, the arbitrator found that the DOE's action violated several provisions of the parties' collective bargaining agreement. As a remedy, the arbitrator ordered the DOE to cease and desist from its refusals. The DOE did not move to vacate or modify the award. See C.P.L.R. § 7511 (party may move to vacate or modify within ninety days after Award's delivery). Nevertheless in answering the petition, the Respondents aver that recent events render the Award "moot and unenforceable." Specifically Respondents note that since the arbitral hearing they have initiated misconduct charges against the Chapter Leader involved in this grievance. This Court shall confirm an award upon application made within one year after its delivery to an applicant unless the award is vacated or modified. See *id.* § 7510. An allegation of mootness is not a proper grounds for refusal to confirm. *Bernstein Family Ltd. P'ship v. Sovereign Partners, L.P.*, 66 A.D.3d 1, 7-8 (1st Dep't 2009). The petition was served on the Respondents on July 24, 2013, and, therefore, the petition is timely. Accordingly, it is

ADJUDGED that the petition is granted, and the Award is confirmed.

U N F I L E D J U D G M E N T
This Judgment has not been entered by the County Clerk and notice of entry cannot be served based hereon. To obtain entry, counsel or authorized representative must EFile a "Request for Entry of Judgment", Proposed Judgment, and any supporting documents on the NY SCEF system.

Dated: 11/14/13

JOAN B. LOBIS, J.S.C.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION