

IA-54, 1177-778

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In the Matter of Arbitration between  
THE TOWN OF KENT POLICE BENEVOLENT  
ASSOCIATION,

D E C I S I O N

Index No.

Petitioner,

- against -

THE TOWN OF KENT,

Respondent.

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DICKINSON, J.

This is a proceeding to confirm and compel  
implementation of an arbitration award.

On July 20, 1978, the New York State Public  
Employees Relations Board pursuant to the Civil Service Law,  
§ 209.4, designated three arbitrators to form an arbitration  
panel and conclude a labor impasse then existing between the  
Petitioner and Respondent. Subsequent to hearings conducted  
on September 7, 1978 and October 12, 1978, an opinion and  
award was made on November 22, 1978.

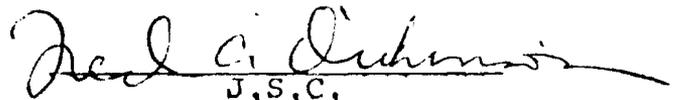
Although the award dealt with many areas, the only  
one contested by Respondent is the wage increase granted the  
Petitioners. This award would, using Respondent's figures,  
increase the average policeman's salary in the Town of Kent  
28.5% in the one year period of 1979. Respondents claim this  
award is arbitrary and capricious and should be disallowed.

It is well settled that a Court cannot interfere with an arbitration award unless there was no rational basis for it (City of Buffalo v. Rinaldo, 41 N.Y.2d 764). However, it is equally well settled that such a determination cannot be made unless an adequate record is before the Court (Caso v. Coffey, 83 M2 614; cf. City of Buffalo v. Rinaldo, supra; Matter of Permanent Professional Fire Fighters Association, Local 2007, I.A.F.F., AFL-CIO, 51 A.D.2d 386, aff'd 41 N.Y.2d 153).

Numerous factors were considered by the arbitrators, including the Town's ability to pay and an examination of pay schedules in allegedly comparable communities. However, this Court has only been given the conclusions and not the facts upon which the determinations were based. It cannot be determined from the information furnished the Court, whether the evidence presented was such that the conclusions could be justified.

Accordingly, this matter is remanded back to the arbitration panel for formal hearings to be conducted and a record made at a time to be agreed upon, subsequent to receipt of this order, with notice of entry. The award shall not be disturbed pending the outcome of the renewed hearings.

Submit Order.

  
J.S.C.

Dated: Carmel, New York  
March 9, 1979

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