

ORIGINAL

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present: ANTONIO I. BRANDVEEN
J. S. C.

UNITED STATES MERCHANTS
PROTECTIVE CO., INC.,

TRIAL / IAS PART 25
NASSAU COUNTY

Petitioner,

Action No. 1

- against -

Index No. 613891/19

54 ISLIP FOOD CORP. d/b/a SHOPFAIR
SUPERMARKET and DANIEL TAVARES,

Motion Sequence No. 001

Respondents.

The following papers having been read on this motion:

Notice of Petition, Affidavits, & Exhibits	<u>1, 2</u>
Answering Affidavits	_____
Replying Affidavits	_____
Briefs: Plaintiff's / Petitioner's	_____
Defendant's / Respondent's	_____
Efiled documents/exhibits	4-6, 11-14

The petitioner seeks an order pursuant to CPLR 7510 and 7514, confirming the Arbitration Award, dated September 4, 2019, in the sum of \$16,087.17, with costs, disbursements, interest from February 1, 2019, and granting additional counsel fees in the sum of \$2,500.00. There is no opposition to this petition.

On June 29, 2018, the parties entered into a written agreement. The parties agreed that any controversy or claim arising out of or relating to the agreement should be settled in accordance with the Commercial Arbitration Rules, Rule 33(a). The petitioner commenced the arbitration July 19, 2019, by serving its demand for arbitration upon the respondents, who

defaulted in appearance (see Commercial Arbitration Rules 6[h], 23. On September 4, 2019, Allan L. Pullin, as arbitrator, after having taken the oath prescribed by law and after the parties had duly submitted their proofs or had the opportunity to do so, and having fully considered all of the evidence and arguments submitted and having come to a decision, duly made an award in writing, whereby determined and awarded \$16,087.17 due to the petitioner from the respondents. On September 5, 2019, in accordance with CPLR § 7507, the arbitrator delivered a copy of the award to each party in the manner provided in the agreement to arbitrate (Rule 38).

The Court determines the petitioner satisfies the burden for confirming the Arbitration Award, dated September 4, 2019, in the sum of \$16,087.17, with costs, disbursements, interest from February 1, 2019, and granting additional counsel fees in the sum of \$3,836.00. Here, the petitioner provides, as exhibits, the demand for arbitration, the notice, the arbitration award and the arbitration rules with affirmation. Respondents have not complied with the award as set forth in the Commercial Arbitration Rules. Commercial Arbitration Rule 38(c) states that “[i]f a party fails to timely comply with the award, a party commencing a proceeding in a court of law to confirm or enforce the award shall be permitted to additional counsel fees for post arbitration proceedings as the court may deem appropriate.” The petitioner’s attorney attached an affirmation to the petition in support of the attorneys’ fees. The Court determines the petitioner is entitled to reasonable attorneys’ fees in the amount of \$3,836.00.

ORDERED, ADJUDGED and DECREED that the petition is GRANTED confirming the Arbitration Award, dated September 4, 2019, in the sum of \$16,087.17, with costs, disbursements, interest from February 1, 2019, and granting additional counsel fees in the sum of \$3,836.00.

ORDERED that the Clerk is directed to enter judgment pursuant to CPLR 5016 upon submission of a proposed judgment which complies with the mandates of CPLR 5018.

This foregoing decision constitutes the decision, judgment and order of the Court.

Submit judgment.

So ordered.

Dated: December 4, 2019

ENTER:



J. S. C.

Final Disposition

ENTERED

DEC 09 2019

NASSAU COUNTY
COUNTY CLERK'S OFFICE