

IN THE COURT OF APPEALS OF
MARYLAND

No. 72

September Term, 1997

MARCEL BLITZ

v.

BETH ISAAC ADAS ISRAEL
CONGREGATION

Bell, C.J.

Eldridge

Rodowsky

Chasanow

Raker

Wilner

*Karwacki, Robert L.

(Retired, specially assigned),

JJ.

Opinion by Bell, C.J.

Filed: December 14, 1998

The petitioner, Marcel Blitz, has filed Petitioner's Motion For Clarification, requesting this Court to clarify the scope of its decision; to state clearly whether the attorneys' fees contemplated by the term "disbursements" include those "incurred...at the appellate level in connection with confirming and enforcing an arbitration award." The motion was prompted by the respondent taking the position, subsequent to the filing of the opinion in this case, that the opinion addresses only those attorneys' fees that the petitioner incurred in the trial court and not those he incurred during the appeals. That remains the respondent's position. Despite its recognition that this Court determined that the word "disbursements," in the context of Maryland Code (1974, 1995 Repl. Vol.) § 3-228(b) of the Courts and Judicial Proceedings Article, includes attorneys' fees, in its Respondent's Answer To Motion For Clarification, relying on the proposition that "[t]he award of attorneys' fees for pursuing the interpretation of a statute on appeal would run contrary to accepted Maryland law," the respondent asserts, "the opinion of this Court does not award attorneys' fees for the appellate efforts of Petitioner."

The issue in this case was straightforward, "whether, pursuant to Maryland Code (1974, 1995 Repl. Vol.), § 3-228(b) of the Courts and Judicial Proceedings Article, the Maryland Uniform Arbitration Act (the Act), the prevailing party in a binding arbitration proceeding may recover reasonable attorney fees when the losing party's unjustified refusal to comply with the award requires the prevailing party to institute and successfully prosecute an action in order to confirm and enforce the arbitration award."

We answered the question in the affirmative, reasoning, “[v]iewed in light of the purpose of arbitration and, in particular, the Uniform Act as enacted in Maryland, and the interpretation other courts have given their equivalent of § 3-228(b), we hold, as the Legislature intended, that disbursements, in the context of proceedings to confirm an arbitration award, include attorneys’ fees.” In reaching that conclusion, we were mindful that we were interpreting a uniform act, which, consistent with the Legislature’s instructions, set out in § 3-232 of the Act, was to “be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.” Thus, we reviewed decisions of our sister States that have construed the provision comparable to § 3-228(b) in their uniform arbitration act, and found that most of them have reached the same result we reached.

We also discovered that the desirability of uniformity of interpretation of uniform acts was not the only rationale for the decisions. Those decisions could only be explained by reference to the “significant difference between the initial arbitration proceedings and the confirmation proceedings.” The Supreme Court of Arizona made just that point, we noted, when it concluded:

The interpretations of our sister states also promote the public policy of encouraging early payment of valid arbitration awards and the discouragement of nonmeritorious protracted confirmation challenges. The prefatory comment to the 1954 draft of the Uniform Arbitration Act stated that court intervention in arbitration ‘must be prompt and simple or the values of arbitration will be largely dissipated through prolonged litigation.’

Canon Sch. Dist. No. 50 v. W.E.S. Construction, 882 P.2d 1274, 1279 (Quoting

Handbook of the National Conference of Commissioners on Uniform State Laws 204 (1954). Moreover, interpreting § 3-228(b) as including attorneys' fees is, we said, consistent with, and furthers, the purpose of the Uniform Arbitration Act and arbitration in general.

The respondent concedes, as it must, that our opinion makes clear that attorneys' fees are payable in connection with confirmation proceedings at the trial level. If "disbursements" include attorneys' fees incurred in a trial proceeding to confirm an arbitration award, it must also include attorneys' fees in an appellate proceeding challenging the trial court's decision. This is especially the case when, as here, the appellate proceedings were made necessary by the respondent's contention that attorneys' fees were not payable at all in respect to confirmation proceedings and it was only as a result of the appellate proceedings that an interpretation of the applicable statute was obtained.

While it seems clear enough that our decision contemplated the payment of all attorneys' fees necessary to obtain confirmation of the arbitration award, we did not explicitly spell it out. We do so now in the interest of avoiding any further argument on the subject, thus avoiding the possible expense and delay of another appeal and for the guidance of the trial court on remand: pursuant to § 3-228(b), the prevailing party is entitled to recover attorneys' fees incurred both at trial and on appeal in confirming and enforcing an arbitration award.

The Motion For Clarification is granted.