FOURTH DIVISION
JUNE 30, 2011

No. 1-09-3575

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE VILLAGE OF OAK LAWN,	)	
	)	Appeal from the
Plaintiff/Appellant/Cross-Appellee,	)	Circuit Court of
	)	Cook County.
	)	
v.	)	
	)	No. 08CH47614
OAK LAWN PROFESSIONAL	)	
FIREFIGHTERS ASSOCIATION,	)	
LOCAL 3405 IAFF,	)	Honorable
	)	Leroy K. Martin, Jr.,
Defendant/Appellee/Cross-Appellant.	)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Lavin and Justice Salone concurred in the judgment.

O R D E R

HELD: trial court order granting a motion for summary judgment to confirm an arbitration award upheld where: the issue was arbitrable; the arbitrator did not exceed the scope of his authority; the arbitrator did not err in interpreting the parties' contract; and the award did not violate Illinois public policy. Trial court order denying a motion for Supreme Court Rule 137 sanctions upheld where a party's challenge to an arbitration award was objectively reasonable and brought in good faith.

Following the entry of an arbitration award on a grievance brought by the Oak Lawn Professional Firefighters Association, Local 3405 IAFF (the Union) against the Village of Oak

Lawn (the Village), the Village filed a motion to vacate, modify or correct the arbitration award in the trial court. The Union, in turn, filed a motion for summary judgment to confirm the arbitration award. The Union also filed a motion for Rule 137 sanctions against the Village for challenging the arbitration award. After conducting hearings on the parties' filings, the trial court granted the Union's motion for summary judgment and confirmed the arbitration award, but denied the Union's motion for sanctions. Both parties appealed. The Village appeals the trial court's summary judgment order upholding the arbitration award, and argues that the award should be reversed because: (1) the arbitrator lacked jurisdiction over the Union's grievance; (2) the arbitrator exceeded the scope of his authority in rendering the award; (3) the arbitrator erred in interpreting the parties' collective bargaining agreement; and (4) the arbitration award is contrary to Illinois public policy. On cross-appeal, the Union challenges the trial court's denial of its motion for Rule 137 sanctions against the Village, arguing that sanctions were warranted because the Village's challenge to the arbitration award was not supported by controlling factual or legal authority. For the reasons contained herein, we affirm the judgment of the trial court.

BACKGROUND

The Agreement

The Union represents a bargaining unit consisting of firefighters, engineers and lieutenants employed by the Village of Oak Lawn's Fire Department (the Department). Throughout the years, the Union and the Village have been party to a collective bargaining agreement (the Agreement), that has been renegotiated to date. At all relevant times, the Agreement has contained a number of provisions that govern the Union members' conditions and

standards of employment, the Village's managerial rights, and the parties' grievance procedure. With respect to managerial rights, Section 3.1 of the Agreement provides:

> "Managerial Rights. The Village shall retain the sole right and authority to operate and direct the affairs of the Village and the Fire Department in all its various respects, including, but not limited to, all rights and authority exercised by the Village prior to the execution of this Agreement, and not inconsistent with this Agreement. Among the rights retained is the Village's right to determine its mission and set standards of services offered to the public; to plan, direct, control and determine the operation of services to be concluded in or at the Fire Department or by the employees of the Village. The Village shall have the right to hire and promote. The Village shall have the right for just cause to suspend or discharge employees (except the Village shall have the right to suspend or discharge probationary employees without just cause). The Village shall have the right to make and equitably enforce reasonable rules and regulations, and to change equipment and facilities.
>
> The Village shall not exercise its rights inconsistent with or in conflict with the other provisions of this Agreement."

Article IV of the Agreement sets forth a four-step grievance procedure. Specifically, Section 4.2 of the Agreement, in pertinent part, provides:

> "Step 1–An employee and/or Union representative may submit a

grievance in writing to the employee's shift commander. The grievance shall contain a brief statement of facts, the contractual provisions and/or other matters of alleged violation and the relief requested. *** The shift commander shall render a written answer to the grievant and the Union within seven (7) calendar days after the grievance is presented. Grievances of a broad contractual nature, a class action type of grievance affecting two (2) or more employees, or a "Union" grievance may bypass Step 1 and be submitted directly to Step 2.

Step 2–If the grievance is not settled in Step 1, it may be submitted to the Fire Chief within seven (7) calendar days after receipt of the answer in Step 1. The Chief shall investigate the grievance, offer to meet with the grievant and an authorized Union representative, and render a written answer within ten (10) calendar days after receipt of the grievance.

Step 3–If the grievance is not settled in Step 2, the grievance may be submitted within ten (10) calendar days after receipt of the answer in Step 2 to the Village Manager who shall meet with the grievant and an authorized representative of the Union, and provide a written answer within ten (10) calendar days following the meeting.

Step 4–if the grievance is not settled at Step 3, the grievance may be submitted to arbitration by either the Union or the Village upon written notice to the other party. Such written notice shall be given within ten

(10) calendar days of receiving the answer in Step 3."

Section 4.4 of the Agreement addresses the relevant time limits set forth Section 4.2's four-step grievance procedure, stating:

> "Time Limits: No grievance shall be entertained or processed unless it is filed within the time limits set forth in [this section]. If the Village fails to provide an answer within the time limits provided, the Union may appeal to the next step. Time limits may be extended by mutual agreement in writing."

Work hour and overtime provisions are contained in Article VI of the Agreement. Specifically, Section 6.4 provides:

> "Overtime Distribution: If the Village determines there is a need for overtime, overtime shall be distributed by means of an overtime roster established on the basis of seniority (length of continuous service) in order of the most senior to the least senior. Day personnel shall be included on the roster and the overtime distribution process. Overtime shall be voluntary and offered in sequential order on the roster, irrespective of classification or rank unless for operational needs the department requires a particular classification or rank and cannot use an employee on duty or in an acting capacity. If an employee refuses overtime or works overtime of twelve (12) hours or more, the employee shall move to the bottom of the overtime roster. If an employee is contacted, his/her position on the

overtime roster shall not change. If no employee voluntarily accepts the overtime offered, the Village shall have the right to assign the overtime to the employee at the bottom of the overtime roster. Employees on sick or injury or maternity leave shall not be contacted for overtime."

Miscellaneous provisions, including minimum manning requirements, are contained in Article VII of the Agreement. Specifically, Section 7.9 states as follows:

"Minimum Manning.

a. The parties recognize that for purposes of efficient response to emergency situations and for reasons of employee safety, sufficient personnel and apparatus need to be maintained in a state of readiness at all times. If the number of on duty personnel falls below the daily minimums, employees shall be hired back pursuant to Section 6.4 'Overtime Distribution.'

b. The Village shall exercise its best efforts to maintain the following apparatus minimum manning requirements:[1]

On each engine:	four (4) employees
One [*sic*] each ALS ambulance:	two (2) paramedics (EMTP)

[1] The Department has utilized three types of emergency apparatuses: engines, advanced life support (ALS) and basic life support (BLS) ambulances, and squads. A squad is an apparatus that supplies water and ventilation at fire scenes and is used in situations that require search and rescue.

One [*sic*] each BLS ambulance:	two (2) employees (EMTA or EMTP)
On each squad:	three (3) employees

c. The Village shall exercise its best efforts to maintain at a minimum the following employees in the described ranks:

twelve (12) Lieutenants

eighteen (18) Engineers

twenty-four (24) Firefighter/Paramedics."

The Grievance

On December 28, 2007, Oak Lawn Fire Department Chief Edward Folliard authored and distributed a memo to Battalion Chiefs Jensen, Hojek and Brand altering the Department's existing minimum manning practice. Chief Folliard's memo provided: "The policy of using 21 personnel as minimum staffing will be discontinued as of January 1, 2008. The use of overtime for replacement personnel may only be used with the authorization of the Fire Chief." Thereafter, beginning on January 2, 2008, Division Chief Norm Rick issued a series of operational directives to the Battalion Chiefs, addressing how fire department equipment should be manned in the event that the staffing levels fell below 21 persons. Per Rick's directives, a squad company would be taken out of service or one or more of the engines would be staffed with less than four personnel. On January 10, 2008, the Union forwarded Grievance No. 08-01 ("the Grievance")[2] to Battalion Chief Mike Jensen objecting to the new change in minimum

[2] The record reflects that the Union filed a number of grievances against the Village and

manning practices, arguing that it failed to accord with the parties' Agreement. Specifically, the Grievance provided:

> "On January 1, 2008 and continuing thereafter, the Oak Lawn Fire Department shut down the squad, reduced minimum manning below the required personnel and failed to call in overtime. This action is in violation of the parties' collective bargaining agreement and past practice, including but not limited to, Article Vii, Section 7.9 Minimum Manning and Article VI, Section 6.3 Overtime and Section 6.4 Overtime Distribution.
>
> Specifically, the Fire Department has not used its best efforts in maintaining minimum manning, complying with the minimum manning requirements on the squad and otherwise has failed to hire back pursuant to Section 6.4 in order to maintain minimum manning requirements. This conduct also violates the parties' long established past practices.
>
> The Union requests that the Fire Department comply with the parties' contracts and past practices and make whole all affected employees * * *."

Battalion Chief Jensen signed a form acknowledging receipt of the Grievance. By agreement, the Village and the Union elected to bypass the remaining procedural protocols set

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that the parties exchanged correspondence that referenced multiple disputes. We wish to emphasize, however, that this appeal solely concerns Grievance 08-01.

forth in Step 1 of the grievance procedure outlined in Section 4.2 of the Agreement, and proceeded directly to Step 2 of the grievance process. In accordance with Step 2, Fire Chief Edward Folliard filed a written answer, denying the Union's Grievance. Chief Folliard's answer provided, in pertinent part:

> "Section 7.9 does not state a daily minimum of employees per shift or specific numbers of apparatus that will be maintained at the ready by staffing. It states only that the Village will use its best efforts to staff individual pieces of equipment with specified numbers of employees, and will use its best efforts to maintain total staffing (not daily minimums) at defined levels by rank. In addition to those provisions, the Agreement also provides in Article I that the Village retains the sole right to direct the affairs of the Fire Department, including the rights to determine the standards of service offered to the public, to direct the working forces, and to determine how the Fire Department will be operated. Nothing contained in Section 7.9 of the Agreement limited the Village's Article I management right to elect not to man the Squad on January 1, 2008 due to absenteeism.
>
> It has been the practice of the Department, although not required by the Agreement, to try to maintain shifts composed of 21 employees. It has become burdensome to the Village to maintain that practice, both from an administrative and from a cost standpoint. Thus, that practice has been

discontinued by the Village."

In accordance with Step 3 of the grievance procedure, the Union submitted the Grievance and Fire Chief Folliard's response to Larry Deetjen, the Village Manager. In pertinent part, the Union argued that Chief Folliard's denial failed to accord with the plain language of the Agreement, which "specifically states in section 7.9 Minimum Manning subsection a. 'The parties recognize that for the purposes of efficient response to emergency situations and for reasons of *employee safety*, sufficient *personnel* and *apparatus* need to be maintained in a state of readiness *at all times*. If the number of on duty personnel falls below the daily minimums, employees SHALL be hired back pursuant to Section 6.4 Overtime Distribution.' " (Emphasis in original.) Moreover, the Union cited section 7.9b of the Agreement which states that " 'The Village SHALL exercise its Best Efforts to maintain at a minimum the following apparatus minimum manning requirements' " and argued that the Village exercised no efforts at all to maintain the minimum manning requirements before deciding to alter the existing minimum manning policy.

On February 7, 2008, the parties conducted a meeting in accordance with Step 3 of the Agreement's grievance procedure. The Village did not provide a written answer within 10 days of the Step 3 meeting as required by Step 3 of the grievance procedure.

The parties continued to engage in discussions regarding various grievance including the Grievance. On March 24, 2008, Union President Bob Lanz wrote Deetjen a letter, in which he made various settlement offers and inquired into the status of the Grievance because the Union had not received a written response from Deetjen within 10 days of the meeting as required by

Step 3 of the grievance procedure. With respect to the Grievance, Lanz wrote "The Village shall immediately stop the repeated violations and compensate all affected employees." Lanz requested the Village to notify the Union within 5 days of its receipt of the letter whether the Village would agree to the Union's terms. Lanz further indicated "[i]f we do not hear from you by then, we will assume that our settlement offers have been rejected. If the Village rejects the above proposal to settle these outstanding matters, then [the Union] shall proceed to arbitration per [the Agreement]. This offer is meant to bring about resolution to a number of outstanding grievances, and in the absence of resolution, notify the Village that [the Union] is invoking Step 4 of the grievance procedure."

On March 31, 2008, Deetjen responded to the Union's letter containing the various settlement offers. With respect to the Grievance, Deetjen acknowledged that he had not provided a written answer in accordance with Step 3 of the grievance procedure, explaining that "based on my belief, after carefully considering all of the facts and circumstances of each grievance, that there is no basis for altering the grievance answers given at earlier steps of the grievance process. Under Sections 4.2 (Step 3 and 4) and 4.4 of the Agreement, the time for submission of these grievances has expired and they are concluded."

No settlement was reached between the parties after exchanging correspondences. Accordingly, on April 17, 2008, the Union sent a request for an arbitration panel to the Federal Mediation and Conciliation Service and issued a copy of its request to the Village.

The Arbitration Hearing

The parties subsequently proceeded to arbitration and selected Stanley Kravit to serve as a

neutral arbitrator. At the outset of the arbitration hearing, the Village submitted Arbitrator Kravit with a motion to determine the arbitrability of the Grievance. In its motion, the Village, in pertinent part, argued that the Union failed to comply with Step 4 of the grievance procedure because it had never provided the Village with written notice appealing the Village's denial of the Grievance. Specifically, the Village maintained that when the Union did not receive a Step 3 answer from Deetjen within 10 calendar days of the February 7, 2008, Step 3 meeting, the Union was required to submit the Grievance to arbitration within 10 calendar days after Village's response period had lapsed, which would have been February 27, 2008. Because "the Union never sent official notice to the Village that it was appealing the Step 3 decision to Step 4 arbitration as required by the [Agreement]," the Village argued that the matter was not arbitrable.

In response to the Village's motion, the Union's attorney argued that she was surprised by the Village's argument, noting that both parties had continued settlement negotiations after the February 7, 2008, Step 3 meeting notwithstanding Deetjen's failure to issue a written response. In that regard, both parties failed to comply with the time frames of the grievance procedure set forth in the Agreement. Ultimately, the negotiations terminated upon Deetjen's issuance of his March 31, 2008, letter, and arbitration followed. Prior to filing its objection, the Village never disputed the arbitrability of the Grievance and even proceeded to join the Union in selecting an arbitrator.

In response, the Village acknowledged its motion created a procedural issue and indicated it had no objection to continuing the arbitration hearing and allowing Arbitrator Kravit to consider the merits of the Grievance claim in addition to the underlying issue of its arbitrability.

At the hearing, John McCastland, the Village's Fire Chief from 1989 to March 1993, testified that he was involved in negotiations regarding the Agreement that became effective from January 1, 1992, to December 1993. Section 7.9, the Minimum Manning clause, was included in the 1992-1993 Agreement for the first time. It remained in every Agreement effective thereafter, and was only ever subjected to minor revisions. McCastland indicated that he proposed the language that ultimately became Section 7.9 of the Agreement. Prior to its inclusion in the Agreement, the minimum manning utilized by the fire department was 22 persons per shift. In the event that staffing fell below the 22 person threshold, McCastland indicated that the shift commander would fill out a form and the Fire Chief would use firefighters on an overtime basis to increase the staff up to 22 persons, which was the minimum number of personnel that McCastland thought was necessary to safely run the department. Because a new board of trustees had been elected within the Village, McCastland felt it was important to include minimum manning language in the 1992-1993 Agreement in order to protect the Fire Department from various the political and economic issues that had developed due to the change in the composition of the Village's Board of Trustees. After the inclusion of the minimum manning section into the Agreement, McCastland indicated that whenever he would exceed his overtime budget attempting to maintain minimum manning of 22, he would take the contract to the Village Manager and Village Finance Director, and they would provide him with additional funds to allow him to maintain the minimum, but would request that he try to stay within his budget.

McCastland, however, acknowledged that the number 22 did not appear within the language of Section 7.9 of the 1992-1993 Agreement, but stated that section 7.9's minimum

manning requirements were meant to accord with the Department's past practices. According to McCastland, the 22 persons on duty would be assigned as follows: four people for each of three fire engines, two persons for each of two ambulances, three individuals for the squad company, and one shift commander.[3] McCastland also acknowledged that Section 7.9 of the 1992-1993 Agreement did not require the Department to operate a specific number of engines, ambulances, or other fire apparatus. However, McCastland indicated that shutting down a piece of equipment was never an option. The Department would always operate with three engines, two ambulances, and one squad company. In the event that a piece of equipment was out of service, McCastland would nonetheless assign 22 people on each shift because that was the minimum number of personnel that he felt was necessary in order to safely operate in the event of a fire.

Battalion Chief John Hojek testified that he had been a part of the Department since 1988. As one of the three Battalion Chiefs in the Department, Hojek was in charge of the daily operations in the Department, including staffing, at each of the three stations operating in the Village. Prior to January 1, 2008, Hojek confirmed that the minimum manning requirement for each shift was 21 persons. Hojek indicated that following the inclusion of section 7.9 into the 1992-1993 Agreement, the Union and Village subsequently agreed to reduce the minimum manning number from 22 to 21 persons. If staffing levels fell below this threshold, Hojek would use the voluntary overtime list to call in enough additional staff to meet the 21 personnel minimum manning requirement. Hojek did not need approval from a superior before consulting

[3] The parties acknowledged in their briefs and at oral argument that the mathematical calculations were not consistent with testimony concerning past practice.

the overtime list and calling in additional manpower. He indicated that the Department always utilized the same number and types of apparatus and followed the 21 personnel minimum manning requirement throughout his career up until January 2008.

Sometime in December 2007, Hojek and the other two battalion chiefs received a memorandum written by Chief Folliard informing them that the current 21 personnel minimum manning policy was being discontinued as of January 2008 and that overtime replacement personnel could only be used if the battalion chiefs received his authorization. The use of overtime to fill staffing levels was no longer automatic. Hojek indicated that this was the first time since 1988 that minimum manning fell below 21 persons. Thereafter, Hojek received written directives from Division Chief of Operations Norm Rick about how various apparatuses should be manned in the event that staffing fell below 21 personnel. Based on Rick's directives, Hojek would either be required to take a squad out of service or operate an engine with 3 persons instead of 4. Hojek subsequently received additional orders from Chief Folliard addressing issues of minimum manning. Only if staffing fell below 19 people was Hojek permitted to call in overtime. At the conclusion of Folliard's testimony, the Union rested.

The Village called Larry Deetjen, Village Manager since July 2007, as its first witness. As the Village Manager, Deetjen indicated that he had a role in attempting to resolve grievances filed by the Union. With respect to the Grievance, Deetjen confirmed that he had conducted a hearing in accordance with Step 3 of the Agreement. He indicated that he did not file a Step 3 answer to the Grievance because he concurred "100 percent" with Chief Folliard. Deetjen explained that the Village's 2008 minimum manning policy change was the result of fiscal

necessity. In 2007, the Village exceeded its budget by more than $2.6 million. Of this deficit, $282,004, comprised overtime costs. In particular, the Fire Department exceeded its 2007 budget by $54,033.

To account for the economic downturn that the Village was experiencing, it adjusted its 2008 budget that spring, making cuts in all department, including the Fire Department's overtime budget. Despite the budget cuts, Deetjen emphasized to Chief Folliard that public safety was not to be jeopardized.

With respect to the procedure the Union followed to resolve the Grievance, Deetjen testified that the Union did not invoke arbitration in a timely manner after the Step 3 meeting. He acknowledged that there was a period of time in which he and the Union engaged in settlement negotiations with respect to the Grievance. Deetjen also acknowledged receipt of the Union's March 24, 2008, letter inquiring into the status of the Grievance, but denied that it was a settlement correspondence. He could not recall whether settlement negotiations were still ongoing at that time. Deetjen further acknowledged that the Union indicated in its letter that if the Village did not accept its settlement proposal it would proceed to Step 4 in the grievance procedure and invoke arbitration.

Fire Chief Edward Folliard, the Village Fire Chief since 2005, testified that he began working for the Village as a firefighter in 1987. He confirmed that he sent a memo on December 28, 2007, to the battalion chiefs informing them that the 21 person minimum manning policy was being discontinued. Chief Folliard authored and sent the memo at the direction of Larry Deetjen, who believed that the firefighters were abusing their sick time. He did not believe that the

change in the minimum manning staffing policy put any of the firefighters in greater danger because he would call for mutual aid from other villages if additional firefighters were needed. Chief Folliard, however, indicated that it would be his preference to have 25 people assigned to work each shift. When he started working for the Department in 1987, it utilized minimum staffing of 22 personnel. During his tenure at the Department, minimum manning had either been 22 or 21 personnel, up until January 1, 2008.

The Arbitration Award

After the hearing concluded, Arbitrator Kravit filed a written opinion finding in favor of the Union. Before addressing the underlying merit of the Grievance, Kravit rejected the Village's contention that the matter was not arbitrable. In making this finding, Arbitrator Kravit observed that Section 4.2, Step 4 of the Agreement's grievance procedure required the Union to provide written notice of its intention to proceed to arbitration " 'within ten (10) calendar days of *receiving* the answer in Step 3.' " (Emphasis in original.) Although the Village Manager was required to provide a written answer within 10 days of the Step 3 meeting, Arbitrator Kravit concluded that Larry Deetjen did not issue a response of any kind until he authored the March 31, 2008, letter. Arbitrator Kravit observed that "[t]he Village is reading Step 4 as if it read 'within ten (10) calendar days of receiving the answer in Step 3 *or the date such answer is due*. Many contracts are written in this manner to establish definite time limits. Here the Union had the right to seek and receive an answer to its Step 3 appeal before invoking arbitration. * * * I cannot read into Steps 3 and 4 a condition for appeal that does not exist, or ignore the specific time limit for appeal to arbitration which does." (Emphasis in original). Arbitrator Kravit further found that

the Union's letter dated March 24, 2008, satisfied the requirements of Section 4.2, Step 4 and adequately provided notice to the Village of its intent to invoke arbitration. Kravit acknowledged that the overall purpose of the letter was to propose settlement of a number of grievances, but emphasized that the letter contained language informing the Village that if resolution did not occur, the Union was invoking Step 4 of the grievance procedure and proceeding to arbitration.

With respect to the underlying merit of the Grievance, Arbitrator Kravit looked to the plain language of Section 7.9 of the Agreement. Arbitrator Kravit observed that Section 7.9a required that " 'sufficient' " personnel be maintained in order to promote efficient response and employee safety. Subsection "a" also stated that overtime was to be used " 'if the number of on duty personnel falls below the daily minimums.' " Based on this language, Arbitrator Kravit found that the language in 7.9a indicated that the "negotiating parties recognized that there were daily minimums and made a commitment to retain them." Arbitrator Kravit, however, found the language in Section 7.9b requiring the Village to use its "best efforts" to maintain apparatus minimum manning requirements to be ambiguous and raised doubts as to the interpretation of the minimum manning requirements in Section 7.9 as a whole. To resolve the ambiguity, Arbitrator Kravit relied on parol evidence and reviewed the testimony presented at the hearing and evidence of the parties' past practice. Arbitrator Kravit found that former Chief McCastland's testimony was entitled to "considerable weight" because he was the only witness who was present when Section 7.9 was created and included in the Agreement. Based on McCastland's testimony, the 22 personnel minimum manning requirement (later reduced by the agreement of the parties to 21) was expressed in the Agreement as a distribution of personnel among the various types of

numbers of fire apparatuses that the parties had been utilizing. In light of the parties' past practice, Arbitrator Kravit interpreted Section 7.9 as requiring the Village to employ 21 personnel per shift and to utilize all of the designated apparatuses.

Accordingly, Arbitrator Kravit granted the grievance. As a remedy, Kravit ordered that "[o]n any shift after January 1, 2008, regarding any engine that was manned with less than four employees, the Village must identify the firefighters who should have been called in under Section 6.4 and pay them the appropriate overtime. For the period January 1-14, 2008, the same remedy is ordered for employees who would have been called in had the squad not been taken out of service."

Circuit Court Proceedings

The Village sought to challenge Arbitrator Kravit's award, filing a motion to vacate, modify or correct the award pursuant to the Uniform Arbitration Act (710 ILCS 5/1 *et seq*. (West 2006)). In its motion, the Village alleged that the Arbitrator Kravit lacked jurisdiction over the Grievance because the Union failed to comply with the procedural requirements set forth in the Agreement governing grievance arbitration. Specifically, the Village argued that the Union failed to provide the Village with notice of its intent to invoke arbitration as required by Section 4.2, Step 4 of the Agreement. The Village also disputed Arbitrator Kravit's decision, arguing that he erred in finding Section 7.9 of the Agreement to be ambiguous, exceeded his authority in finding that the Agreement required the Village to maintain minimum manning of 21 persons per shift and that he violated public policy by depriving the Village of its right to determine the number of firefighters, paramedics and apparatus to be used for each shift. Moreover, the Village

argued that Arbitrator Kravit displayed bias during the arbitration hearing.

In response, the Union denied the material allegations in the Village's motion, and filed a counterclaim to confirm the arbitration award, arguing that Arbitrator Kravit acted within the scope of his authority and that his award did not violate public policy and should be affirmed. Thereafter, the Union filed a motion for summary judgment, arguing that based on the pleadings and exhibits in the record, there was no genuine issue of material fact, no grounds to modify the arbitration award and that it was entitled to judgment as a matter of law.

The trial court presided over a hearing on the parties' motions. After hearing the arguments from both parties, the trial court denied the Village's motion to vacate or otherwise modify the arbitration award and granted the Union's motion for summary judgment. With respect to the Village's argument that the Union failed to follow the proper steps to arbitrate the Grievance, the trial court "[did not] find much merit" to its claim. The court observed that the Village agreed to submit the issue of arbitrability before Arbitrator Kravit and found no reason to disturb his finding. The court also rejected the Village's argument that Arbitrator Kravit showed bias during the hearing, finding no evidence to support its claim in the transcript. With respect to the Grievance itself, the trial court indicated that the scope of the Grievance was broad and that the parties had agreed to let Arbitrator Kravit rule on the it. Accordingly, the trial court did not find any basis to interfere with Arbitrator Kravit's award.

Thereafter, the Union filed a motion for seeking sanctions against the Village pursuant to Illinois Supreme Court Rule 137, arguing that the Village's motion to vacate the arbitration award was not well-grounded in fact or law. The Union argued that the Village's motion,

specifically, its allegation that Arbitrator Kravit evidenced bias, was not supported by the record. Moreover, given the limited judicial review accorded to arbitration awards, the Union argued that the Village's motion seeking to vacate or otherwise modify the arbitration award did not accord with established law.

In response, the Village argued that its challenge to the arbitration award was brought in good faith and was based on current controlling case law. Although the Village recognized that review of arbitration awards are limited, it nonetheless argued that its challenge was based upon its objective belief that Arbitrator Kravit exceeded the scope of his authority and issued an award that was contrary to public policy. Although its challenge to the arbitrator award was unsuccessful, the Village argued that sanctions were not warranted merely because it did not prevail on appeal.

The trial court conducted a hearing on the Union's motion for sanctions. In the end, the court denied the Union's motion, stating:

> "There may have been, for example, the argument that the Village put forth about the bias by– bias that the Arbitrator may have shown that I didn't think much of, didn't think much of the argument. As counsel for the Village pointed out, the Court rejected that particular argument. I just picked that argument by way of example. I do not, however, believe that sanctions under Section [*sic*] 137 are appropriate though. I believe that the–that there was a *bona fide* dispute in this case, and I don't see that there is any bad faith on the part of the Village.

> Again, I'm not–I agree–and I just pointed out that one particular issue regarding bias, that I didn't think much of the argument, but there–there's a difference between not thinking much of the argument and thinking that the argument is brought in such a way that Section [*sic*] is–has been violated, and I'm just not convinced that it has been.
>
> So I'm unwilling to enter sanctions pursuant to Section 137."

Following the trial court's rulings, the Village filed a notice of appeal, appealing the denial of its motion to vacate the arbitration award. The Union, in turn, filed a notice of cross-appeal, appealing the trial court's denial of its motion for Rule 137 sanctions. We will first address the arguments raised by the Village and then turn to the arguments advanced by the Union on cross-appeal.

ANALYSIS

I. Arbitrability

The Village first argues that the trial court erred in granting the Union's motion for summary judgment and denying its motion to vacate, modify or correct the arbitration award because the Union failed to comply with the arbitration grievance procedure set forth in Article IV of the Agreement. Specifically, the Village argues that the Union did not comply with Section 4.2, Step 4 of the Agreement when it failed to inform the Village of its intent to proceed to arbitration in a timely manner. According to the Village, when Village Manager Larry Deetjen failed to file a written response after conducting a Step 3 meeting, the Union, pursuant to Section 4.4 of the Agreement, had 10 days within which to inform the Village, in writing, of its intent to

invoke arbitration pursuant to Step 4. Specifically, after Deetjen conducted the Step 3 meeting on February 7, 2008, and failed to file an answer within ten days thereof, the Union was required to invoke arbitration by February 27, 2008, ten days after the period for Deetjen's response had lapsed. Because the Union did not invoke arbitration until April 17, 2008, when it made a request to the Federal Mediation and Conciliation Service for an arbitration panel, it failed to comply with the grievance procedure set forth in the Agreement and, accordingly, Arbitrator Kravit lacked the requisite jurisdiction over the Grievance, rendering his award is null and void.

The Union responds that Arbitrator Kravit correctly found that the Grievance was arbitrable. Given that Village Manager Larry Deetjen failed to issue a timely response, Arbitrator Kravit correctly found that pursuant to sections 4.2 and 4.4 of the Agreement, the Union was not required to invoke arbitration by February 27, 2008. Instead, Arbitrator Kravit rejected the Village's argument regarding timeliness because to accept the Village's position would require him to add additional language to the Agreement, namely that Section 4.2, Step 4 should be read to require that notice of intent to arbitrate must be given within 10 days after receiving an answer "or the date such answer is due." Moreover, the Union maintains that Arbitrator Kravit correctly found that the Union's March 24, 2008, letter sufficiently notified the Village of its intent to proceed to arbitration.

Standard of Review

This appeal comes before this court following the trial court's ruling on a motion for summary judgment. Summary judgment is appropriate when "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to

any material fact and that the moving party is entitled to judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2006). In reviewing a motion for summary judgment, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the moving party to determine whether a genuine issue of material fact exists. *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). Although summary judgment has been deemed a "drastic means of disposing of litigation" (*Purtill v. Hess*, 111 Ill. 2d 229, 240 (1986)), it is nonetheless an appropriate mechanism to employ to expeditiously dispose of a lawsuit when the moving party's right to a judgment in its favor is clear and free from doubt (*Morris v. Margulis*, 197 Ill. 2d 28, 35 (2001)). A trial court's ruling on a motion for summary judgment is subject to *de novo* review. *Weather-Tite, Inc. v. University of St. Francis*, 233 Ill. 2d 385, 389 (2009).

Importantly, however, this appeal calls for review of an underlying arbitration award. On appeal from the circuit court's ruling on an arbitration award, we review the underlying arbitration award, not the decision of the circuit court. *City of Chicago v. Fraternal Order of Police*, *Lodge No. 7*, 399 Ill. App. 3d 707, 711 (2010). Arbitration awards are governed by the Illinois Uniform Arbitration Act (Arbitration Act) (710 ILCS 5/1 *et seq*. ILCS (West 2006)). The Arbitration Act "embodies a legislative policy favoring enforcement of agreements to arbitrate future disputes." *Salsitz v. Kreiss*, 198 Ill. 2d 1, 13 (2001). Arbitration is viewed favorably because it is "an effective, expeditious, and cost-effective method of dispute resolution." *Salsitz*, 198 Ill. 2d at 13; see also *First Health Group Corp. v. Ruddick*, 393 Ill. App. 3d 40, 47 (2009). Because judicial and legislative policy favors arbitration, judicial review of an arbitration award is "extremely limited." *City of Chicago*, 399 Ill. App. 3d at 711; *First Health Group Corp.*, 393

Ill. App. 3d at 48. " 'Limited judicial review fosters the long-accepted and encouraged principle that an arbitration award should be the end, not the beginning of litigation.' " *Yorulmazoglu v. Lake Forest Hospital*, 359 Ill. App. 3d 554, 564 (2005), quoting *Perkins Restaurants Operating Co. v. Van Den Bergh Foods, Co.*, 276 Ill. App. 3d 305, 309 (1995).

Accordingly, our supreme court has stated that "wherever possible" reviewing courts should "construe arbitration awards so as to uphold their validity." *Salsitz*, 198 Ill. 2d at 13. Therefore, an arbitrator's decision may not be overruled simply if a reviewing court's interpretation differs; rather, a reviewing court must affirm the award "if the arbitrator acted within the scope of his authority and granted an award that draws its essence from the agreement between the parties." *City of Chicago*, 399 Ill. App. 3d at 711. Notably, where the parties agree to submit the question of arbitrability itself to arbitration, a reviewing court should review the arbitrator's decision on that issue as deferentially as it would review any other decision the arbitrator makes on matters the parties agreed to arbitrate. *Salsitz*, 198 Ill. 2d at 14-15. Indeed, questions of contractual time limitations are for arbitrators, not the courts to decide because "[s]uch decisions usually require construing the contract in light of the customs and practices of the industry, a task particularly within the competence of the arbitrator." *Board of Education of Posen-Robbins School District No. 143 1/2, Cook County v. Daniels*, 108 Ill. App. 3d 550, 555-56 (1982).

Article IV of the parties' Agreement contains the procedure applicable to grievance disputes. In pertinent part, Section 4.2 set forth a four-step procedure to resolve disputes that arise between the parties. Here, there is no issue pertaining to either party's compliance with

Step 1 or Step 2 of the grievance procedure as the Union's Grievance was filed and the Fire Chief issued a timely response thereto. In accordance with Step 3 of the grievance procedure, the Union then submitted the Grievance to Village Manager Larry Deetjen on January 28, 2008. Deetjen subsequently presided over a Step 3 meeting with Union representatives on February 7, 2008. Although Step 3 provides that the Village Manager "shall * * * provide a written answer within ten (10) calendar days following the meeting," Deetjen did not do so. Accordingly, on March 24, 2008, the Union addressed a letter to Deetjen, observing that no Step 3 response had been received and inquiring into the status of the Grievance. In the letter, the Union also proposed settlement of a number of grievances including the Grievance and provided the Village with five days to respond to its settlement proposal. The letter further stated: "If the Village rejects the above proposal to settle these outstanding matters, then [the Union] shall proceed to arbitration per the [Agreement]. This offer is meant to bring about resolution to a number of outstanding grievances, and in the absence of resolution, notify the Village that [the Union] is invoking Step 4 of the grievance procedure." Deetjen responded to the Union with a letter of his own on March 31, 2010. In it, Deetjen confirmed that he had provided no written Step 3 answer because he had found no basis upon which to alter grievance answers provided during earlier steps in the grievance procedure. Deetjen also indicated that "[u]nder Sections 4.2 (Step 3 and 4) and 4.4 of the Agreement, the time for submission of these grievances has expired." On April 17, 2008, following receipt of Deetjen's letter, the Union submitted a request for an arbitration panel commencing the arbitration process.

In finding the matter arbitrable, Arbitrator Kravit rejected of the Village's argument that

pursuant to sections 4.2 and 4.4 of the Agreement, the Union was required to provide notification of its intent to arbitrate by February 27, 2008, because Village Manager Larry Deetjen did not provide an answer within 10 days of the February 7, 2008, Step 3 meeting. Arbitrator Kravit observed "Section 4.4 states that 'If the Village fails to provide an answer within the time limits provided, the Union may appeal to the next Step." Section 4.2, Step 4 sets the time limit for appeal to arbitration as 'within ten (10) calendar days of *receiving* the answer in Step 3.' Although the Manager is expected to provide a written answer within 10 days of the Step 3 meeting, the time limit for appeal to Step 4 is within 10 days of *receipt* of his answer." (Emphasis in original.) Arbitrator Kravit further found that the Union sufficiently apprised the Village of its intent to invoke arbitration and satisfied Section 4.4's notification requirements when it submitted its March 31, 2008, letter to Village Manager Deetjen. He noted that the overall purpose of the Union's letter was to propose settlement of a number of grievances, but emphasized that the letter contained relevant language informing the Village that the Union would invoke Step 4 of the grievance procedure if resolution could not be reached.

We do not find that the arbitrator's interpretation of the parties' grievance procedure and their compliance thereof was inherently unreasonable. Arbitrator Kravit correctly observed that there was no Step 3 answer filed within 10 days of the parties' February 7, 2008, meeting. Section 4.4 states, in pertinent part: "If the Village fails to provide an answer within the time limits provided, the Union *may* appeal to the next Step." (Emphasis added.) Based on Section 4.4, the Union was entitled to proceed to Step 4 when Village Manager Deetjen failed to respond within the ten days of the Step 3 meeting, but was not required to do so within 10 days after

Deetjen's time for a response had lapsed. Arbitrator Kravit reasonably concluded that Step 4's 10-day notice requirement is triggered by the receipt of a Step 3 answer, not simply by the passage of the date on which the answer is due. Although we question Arbitrator Kravit's finding that Deetjen's March 31, 2010, letter constituted a Step 3 answer given that Deetjen confirms in the document that he did not provide a Step 3 response, we nonetheless agree with his general overall assessment that it is the receipt of a Step 3 answer that triggers Step 4's 10-day arbitration notification requirement. Accordingly, in this case, because there was no Step 3 answer the Union was not bound by the 10-day arbitration notification requirement.

We further find that Arbitrator Kravit's conclusion that the Union's March 24, 2008, letter sufficiently notified the Village of the invocation of its Step 4 arbitration rights was similarly reasonable. Although the overall intent of the letter was to propose settlement of a number of grievances, including the Grievance at issue herein, the Union's letter nonetheless informed the Village that if settlement could not be reached within 5 days, it would invoke arbitration pursuant to Step 4 of the grievance procedure. Specifically, the letter stated: "If the Village rejects the above proposal to settle these outstanding matters, the [Union] shall proceed to arbitration per the [Agreement]. This offer is meant to bring about resolution to a number of outstanding grievances, and *in the absence of resolution, notify the Village that [the Union] is invoking Step 4 of the grievance procedure*." (Emphasis added.)

In upholding the arbitrability of the Grievance, we emphasize that questions of contractual time limitations are questions for arbitrators, and not the courts to decide and that when parties bargain for an arbitrator's construction of their collective bargaining agreement,

reviewing courts may not overrule the arbitrator's decision simply because a different interpretation exists. *Daniels*, 108 Ill. App. 3d at 555. Ultimately, we do not conclude that Arbitrator Kravit's interpretation and construction of the parties' grievance procedure was unreasonable or that he erred in finding the matter arbitrable. See, *e.g.*, *Daniels*, 108 Ill. App. 3d at 555 (upholding the arbitrator's interpretation of the time limitations contained in the parties' contract because if "did not constitute a manifest disregard of the agreement of the parties so as to justify * * * overruling it"). We further note that this finding, upholding the arbitrability of the Grievance, comports with Illinois policy favoring arbitration as a means of dispute resolution. *See Amalgated Transit Union, Local 900 v. Suburban Bus Division of Regional Transportation Authority*, 262 Ill. App. 3d 334, 341 (1994). Having found the matter arbitrable, we turn to the Village's remaining arguments disputing the arbitration award.

II. Scope of Authority

The Village next argues that the trial court erred in granting the Union's motion for summary judgment and denying its motion to vacate, modify or correct the arbitration award because Arbitrator Kravit exceeded his authority by considering and deciding issues that were not raised in the Grievance. Specifically, the Village argues that Arbitrator Kravit did not have the authority to render a decision pertaining to the minimum manning of fire engines or minimum manning per shift. Accordingly, Arbitrator Kravit's decision cannot stand.

The Union responds that Arbitrator Kravit did not exceed the scope of his authority by deciding issues involving engine apparatus and minimum manning requirements. The Union argues that the Grievance clearly indicated that its subject matter concerned the minimum

manning requirements of Section 7.9 of the Agreement and that the issues of minimum apparatus and shift manning were necessary considerations to interpret the requirements set forth in Section 7.9 and resolve the Grievance.

An arbitration award granted by an arbitrator who exceeded his authority cannot stand; rather, such an award must be vacated. *Water Pipe Extension, Bureau of Engineering Laborers' Local 1092 v. City of Chicago*, 318 Ill. App. 3d 628, 634 (2000). The scope of an arbitrator's authority depends upon the issues that the parties agree to submit to arbitration. *American Federation of State, County, and Municipal Employees, AFL-CIO v. State of Illinois*, 124 Ill. 2d 246, 254 (1988). An arbitrator exceeds his authority when he renders a decision on matters that were not submitted for his consideration. *Board of Trustees of Community College District No. 508, Cook County v. Cook County College Teacher's Union, Local 1600*, 74 Ill. 2d 412 (1979); *Water Pipe Extension*, 318 Ill. App. 3d at 634. Whether an arbitrator exceeded his authority is an issue of law and is subject to *de novo* review. *Water Pipe Extension,* 318 Ill. App. 3d at 634. However, given the limited review of arbitrator awards, "[w]e start with 'the presumption that the arbitrator did not exceed his [or her] authority.' " *First Health Group Corp. v. Ruddick*, 393 Ill. App. 3d 40, 47 (2009), quoting *Galasso v. KNS Companies, Inc.*, 364 Ill App. 3d 124, 130 (2006).

Here, the Union's Grievance, in pertinent part, provided:

> "On January 1, 2008 and continuing thereafter, the Oak Lawn Fire Department shut down the squad, reduced minimum manning below the required personnel and failed to call in overtime. This action is in

> violation of the parties' collective bargaining agreements and past practice, including but not limited to, Article VII, Section 7.9 Minimum Manning and Article VI, section 6.3 Overtime and Section 6.4 Overtime Distribution.
>
> Specifically the Fire Department has not used its best efforts in maintaining minimum manning, complying with the minimum manning requirements on the squad and otherwise and has failed to hire back pursuant to Section 6.4 in order to maintain minimum manning requirements. This conduct also violates the parties' long established past practices."

The Village correctly observes that the Grievance did not make an "explicit" reference to staffing levels as it pertained to engine apparatus or the number of personnel to be assigned to each shift. Nonetheless, we disagree that Arbitrator Kravit exceeded the scope of his authority in rendering his arbitration award. The Grievance specifically objected to the Village's failure to "comply[] with the minimum manning requirements of the squad *and otherwise*," and was broad in scope. (Emphasis added.) Indeed, the Union's Grievance was predicated on the Village's violation the minimum manning requirements set forth in Section 7.9 of the Agreement. That provision recognizes "daily minimum[]" requirements and requires the Village to "exercise its best efforts to maintain * * * apparatus minimum manning requirements." Accordingly, the Grievance was not limited to issues of minimum manning that solely concerned the squad; rather the broader issues of apparatus minimum manning, including engine minimum manning, and

daily minimums were clearly raised in the Grievance.

Moreover, we find the Village's argument that issues of shift and apparatus manning were not properly before Abitrator Kravit is disingenuous given the position of the Village adopted prior to the arbitration hearing. Village Manager Larry Deetjen indicated both prior to, and during the hearing, that he did not provide a Step 3 answer because he agreed with the answer provided by Fire Chief Folliard. Folliard's answer clearly recognized that the Grievance, by disputing the change in the minimum manning policy, raised issues concerning the assignment of personnel to shifts and fire apparatus. Specifically, Chief Folliard stated: "Section 7.9 does not state a daily minimum of employees per shift or specific numbers of apparatus that will be maintained at the ready by staffing. It states only that the Village will use its best efforts to staff individual pieces of equipment with specified numbers of employees, and will use its best efforts to maintain total staffing (not daily minimums) at defined levels by rank." Although Chief Folliard ultimately rejected the Union's argument, he nonetheless acknowledged that the Union's Grievance raised issues concerning shift and apparatus minimums. By adopting Chief Folliard's response, Village Manager Deetjen also recognized that issues of shift and apparatus minimums were raised in the Grievance. Moreover, during the hearing, the Village's posture regarding the scope of the Grievance varied inconsistently. During opening argument, counsel for the Village argued that the Grievance was narrow, and solely concerned whether, pursuant to the Agreement, the Village was required to use overtime to replace absent employees and whether the Village was required to utilize and staff a squad. Later, however, consistent with the answer the Village adopted prior to the hearing, counsel for the Village conceded that the issue of daily minimums

was an issue before the arbitrator.

Ultimately, based on the plain language of the Grievance and section 7.9 of the Agreement, as well as the positions the parties adopted prior to and during the hearing, the issues of minimum shift and apparatus minimums were properly before Arbitrator Kravit and he did not exceed the scope of his authority in rendering the arbitration award.

III. Contract Construction

The Village next argues that the trial court erred in granting the Union's motion for summary judgment and denying its motion to vacate the arbitration award because Arbitrator Kravit ignored relevant contractual language in the Agreement. Specifically, the Village argues that Arbitrator Kravit ignored "best efforts" section 7.9b of the Agreement and erred in finding the Agreement's minimum manning provision to be ambiguous. Moreover, he inserted requirements obligating the Village to maintain minimum shift and apparatus manning requirements even though those requirements were not expressly provided for in the Agreement. Accordingly, the Village argues that Arbitrator Kravit's interpretation of the contract failed to give effect to the essence of the parties' Agreement.

The Union disagrees that Arbitrator Kravit's interpretation deviated from the essence of the Agreement. Arbitrator Kravit did not disregard the language in the Agreement nor did he err in concluding that ambiguity existed within Section 7.9. Accordingly, the Union contends that it was appropriate to rely on testimony regarding the intent of Section 7.9 and past practice to resolve the ambiguity and resolve the Grievance.

It is well-settled that when parties to a collective bargaining agreement agree to submit

their conflict to arbitration, the parties agree to accept the arbitrator's interpretation of their contract. *American Federation of State, County & Municipal Employees v. Department of Central Management Services*, 173 Ill. 2d 299, 304-05 (1996); *City of Harvey v. American Federation of State, County and Municipal Employees, Counsel 31, Local 2404*, 333 Ill. App. 3d 667, 674 (2002). In construing a collective bargaining agreement, the cardinal rule is to ascertain and give effect to the intention of the parties and the best indication of their intent is the plain language of the contract. *City of Rockford v. Unit Six of Policemen's Benevolent & Protective Association of Illinois*, 351 Ill. App. 3d 252, 257 (2004). Given the limited review given to arbitration awards, a reviewing court may not overrule the arbitrator's construction of a collective bargaining contract merely because a different interpretation could apply. *American Federation,* 173 Ill. 2d at 304-05; see also *City of Northlake v. Illinois Fraternal Order of Police Labor Council, Lodge 18*, 333 Ill. App. 3d 329, 335 (2002) ("Any question regarding the interpretation of a collective-bargaining agreement is to be answered by the arbitrator, and we will not overrule that construction merely because our interpretation differs from that of the arbitrator"). However, an arbitrator is not permitted to ignore the plain language of the contract or interpret language that is unambiguous. *Perkins Restaurants Operating Co., L.P. v. Van Den Bergh Foods, Co.*, 276 Ill. App. 3d 305, 310 (1995). If a collective bargaining agreement is susceptible to more than one interpretation, however, then it is ambiguous and the fact-finder may rely on parol evidence to ascertain the intent of the parties. *City of Northlake*, 333 Ill. App. 3d at 338. Parol evidence may be used to establish " 'the [parties'] actual agreement, in light of the allegation that the written instrument, in spite of the apparent agreement expressed by its

language, fails to express the actual agreement entered into between the parties.' " *First Health Group Corp. v. Ruddick*, 393 Ill. App. 3d 40, 53 (2009). Ultimately, a reviewing court may vacate an arbitration award only if all fair and reasonable minds would agree that the arbitrator's construction of the parties' agreement was not a possible fair interpretation of the contract. *7-Eleven, Inc. v. Dar*, 325 Ill. App. 3d 399, 404 (2001).

Here, Arbitrator Kravit was called upon to interpret section 7.9 of the Agreement, which provides, in pertinent part:

"Minimum Manning.

a. The parties recognize that for purposes of efficient response to emergency situations and for reasons of employee safety, sufficient personnel and apparatus need to be maintained in a state of readiness at all times. If the number of on duty personnel falls below the daily minimums, employees shall be hired back pursuant to Section 6.4 'Overtime Distribution.'

b. The Village shall exercise its best efforts to maintain the following apparatus minimum manning requirements:

On each engine:	four (4) employees
One [*sic*] each ALS ambulance:	two (2) paramedics (EMTP)
One [*sic*] each BLS ambulance:	two (2) employees (EMTA or EMTP)
On each squad:	three (3) employees."

Based on the language in subsection a., Arbitrator Kravit found that it evident "that the negotiating parties recognized that there were daily minimums and made a commitment to retain

them." Arbitrator Kravit further found that the daily minimums were a function of the different types of apparatus listed in subsection b. Although the Agreement clearly reflected the fact that the parties recognized that there were daily minimums, Arbitrator Kravit found that the "best efforts" language in subsection b. created ambiguity and raised doubt as to the interpretation of Section 7.9 as a whole, explaining "[w]ithout this language, there would be no doubt. 7.9-b. would read: 'The Village shall maintain the following minimum manning requirements:' " To resolve this ambiguity, Arbitrator Kravit relied on testimony from former Chief McCastland and Battalion Chief Hojek, as well as the parties' past practice to determine the proper interpretation of Section 7.9 and the relationship between subsections a. and b. Based on the evidence, Arbitrator Kravit found that the Agreement reflected the parties intent to maintain the practice of staffing the fire department with 21 personnel per shift and assign them to the apparatus' designated in section 7.9b. Specifically, he found: "Based on the contract language, testimony regarding original negotiations, and past practice, the Union has proved that the parties intended and maintained for 15 years under five contracts a mutual commitment to assign 21 employees per shift. This figure is derived from the equipment and manning table in 7.9-b. and the Union's argument by the fact that the equipment, which represents the standard of service to the Village, has been maintained to the present day." Based on McCastland's testimony, the "best efforts" language reflected the realization that temporary adjustments would have to be made if incidents arose during a shift and a different number of personnel needed to be assigned to a different piece of apparatus. It did not refer to permanent changes in personnel number or apparatus number. Indeed, Arbitrator Kravit found it notable that when the Village sought to reduce shift manning

from 22 to 21 personnel on a permanent basis, it was done following negotiations with the Union, and observed that if any underlying change in conditions occurred such that the Village wanted to permanently change the minimum manning requirements, the Village, pursuant to section 3.1 of the Agreement, was required to exercise its managerial rights in a manner that was not inconsistent with the Agreement, i.e. bargaining with the Union.

We do not find that Arbitrator Kravit interpretation of the parties contract to be unreasonable or that he read additional terms into the parties' Agreement and failed to effectuate the essence of their contract. Initially, we do not find that he erred in finding ambiguity in Section 7.9 as a whole. Section 7.9a provides that there are daily minimums and that "sufficient personnel and apparatus need to be maintained in a state of readiness at all times," but does not specify the number of personnel and apparatus that the parties deem to be a "sufficient" number. Meanwhile, Section 7.9b requires the Village to utilize its "best efforts" to maintain apparatus manning minimums but does not indicate the number of apparatus that need to be utilized or define the phrase "best efforts." See, *e.g.*, *Grant v. Board of Education of the City of Chicago*, 282 Ill. App. 3d 1011, 1025-26 (1996) (finding the phrase "best efforts" as utilized in the parties' collective bargaining agreement to be ambiguous). Moreover, the relationship between subsections a. and b. is unclear from the contract language itself. Because the contract was ambiguous, Arbitrator Kravit was entitled to rely on parol evidence, including testimony concerning the parties' past practices, to ascertain the meaning and intent of Section 7.9's minimum manning requirements. *City of Northlake*, 333 Ill. App. 3d at 338. Based on the parol evidence, we do not find that Arbitrator's Kravit's interpretation of the parties' contract to

include a minimum manning requirement of 21 personnel per shift or his conclusion that the Village breached the agreement when it reduced the minimum manning requirement below 21 personnel per shift, shut down the squad, and staffed engines with less than four people was inherently unreasonable.

We acknowledge that it is possible to construe the parties' Agreement in different manner than that done by Arbitrator Kravit; however, a reviewing court may not overrule the arbitrator's construction simply because a different interpretation could be drawn. *American Federation*, 173 Ill. 2d at 305; *City of Chicago*, 399 Ill. App. 3d at 711. We reiterate the judicial review of arbitration award is "extremely limited" (*American Federation*, 173 Ill. 2d at 305; *City of Chicago*, 399 Ill. App. 3d at 711) and that an award may only be reversed in " 'extraordinary circumstances' " (*First Health Group Corp. v. Ruddick*, 393 Ill. App. 3d 40, 47 (2009), quoting *Yorulmazoglu v. Lake Forest Hospital*, 359 Ill. App. 3d 554, 564 (2005)). For example, reversal is warranted an arbitrator ignores and fails to abide by clearly unambiguous contract language. See, *e.g.*, *Shearson Lehman Bros. v. Hendrich*, 266 Ill. App. 3d 24, 29 (1994) (arbitration award reversed when the arbitrator awarded the defendants a deferred compensation sum "which was clearly not based upon the precise and unambiguous formulas provided" in the parties' agreement). Here, Arbitrator Kravit did not ignore explicit contract language and requirements; rather he used parol evidence to interpret and give effect to the parties' ambiguous Agreement. Ultimately, do not find that extraordinary circumstances exist in this case or that no reasonable mind could agree with Arbitrator Kravit's construction of the parties' Agreement, such that reversal of the arbitration award is warranted.

IV. Public Policy

The Village finally argues that Arbitrator Kravit's award is contrary to public policy, namely the policy that provides employers with the exclusive authority to make decisions pertaining to effective fire protection services for the public. In support, the Village cites Section 4 of the Illinois Public Labor Relations Act (Labor Relations Act) (5 ILCS 315/4 (2008)), which protects the managerial rights of employers and prevents them from having to bargain over matters of inherent managerial policy.

The Union disagrees that the arbitration award contravenes public policy. Because the dispute centered around wages, hours and conditions of employment that were previously bargained for, the award does not contravene any provision in the Labor Relations Act. Indeed, while the Labor Relations Act protects managerial rights, it also sets forth the public policy in Illinois granting employees the right to organize for the purpose of negotiating wages, hours, and other conditions of employment. 5 ILCS 315/2 (West 2008). Accordingly, Arbitrator Kravit's decision protecting the Union's bargained-for rights is not contrary to public policy.

Although judicial review of an arbitration award is "extremely limited,"*(City of Chicago*, 399 Ill. App. 3d at 711; *First Health Group Corp.*, 393 Ill. App. 3d at 48), an arbitration award that contravenes public policy will be vacated. *Chicago Transit Authority v. Amalgamated Transit Union, Local 241*, 399 Ill. App. 3d 689, 696 (2010). This exception is "grounded in the common law. As with any contract, a court will not enforce a collective-bargaining agreement that is repugnant to established norms or public policy. Likewise, we may not ignore the same public policy concerns when they are undermined through the process of arbitration." *American*

Federation of State, County and Municipal Employees, AFL-CIO v. Department of Central Management Services, 173 Ill. 2d 299, 307 (1996). The public policy exception, however, is narrow and the party seeking to invoke this exception must make a " 'clear showing' " that the award violates some explicit public policy. *Id*., quoting *City of Highland Park v. Teamster Local Union No. 714*, 357 Ill. App. 3d 453, 460 (2005). A state's public policy is determined by its constitution, laws, and judicial decisions and " 'not from generalized considerations of supposed public interests.' " *Id.*, quoting *W.R. Grace & Co. v. Local Union No. 759*, 461 U.S. 757, 766, 103 S. Ct. 2177, 2183, 76 L. Ed. 2d 298, 307 (1983).

To determine whether an arbitration award should be vacated under the public policy exception, a reviewing court must undertake a two-step analysis. *American Federation*, 173 Ill. 2d. at 307; *Amalgamated Transit Union*, 399 Ill. App. 3d at 696. The threshold question is whether a well-defined, dominant public policy exists. *American Federation*, 173 Ill. 2d. at 307; *Amalgamated Transit Union*, 399 Ill. App. 3d at 696. If so, the court must determine whether the arbitrator's award, as reflected in his interpretation of the parties agreement, violated that public policy. *American Federation*, 173 Ill. 2d. at 307; *Amalgamated Transit Union*, 399 Ill. App. 3d at 696.

The Village contends that Arbitrator Kravit's award contravenes established Illinois public policy protecting the right of employers to exercise their managerial rights. Specifically, the Village points to section 4 of the Labor Relations Act (5 ILCS 315/4 (West 2006)), which provides:

"Employers shall not be required to bargain over matters of

> inherent managerial policy, which shall include such areas of discretion or policy as the functions of the employer, standards of service, its overall budget, the organizational structure and selection of new employees, examination techniques and direction of employees. Employers, however, shall be required to bargain collectively with regard to policy matters directly affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by employee representatives.
>
> To preserve the rights of employers and exclusive representatives which have established collective bargaining relationships or negotiated collective bargaining agreements prior to the effective date of this Act, employers shall be required collectively with regard to any matter concerning wages, hours or conditions of employment about which they have bargained for and agreed to in a collective bargaining agreement prior to the effective date of this Act." 5 ILCS 315/4 (West 2006).

While the Village is correct that the Labor Relations Act protects managerial rights, the Labor Relations Act, as a whole, is designed to protect the rights of both employers *and* employees by providing for a system of collective bargaining for those parties that fall within its scope. See *Village of Hazel Crest v. Illinois Labor Relations Board*, 385 Ill. App 3d 109, 113 (2008). As the Union observes, one of the express purposes of the Labor Relations Act is reflected in Section 2, which protects the rights of employees to self-organize for the purposes of negotiating wages, hours and other conditions of employment and to regulate disputes that arise

between employers and employees under collective bargaining agreements. Section 2 of the Labor Relations Act clearly delineates the purposes and policy behind its enactment, providing, in pertinent part:

> "It is the public policy of the State of Illinois to grant public employees full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating wages, hours and other conditions of employment or other mutual aid or protection.
>
> It is the purpose of this Act to regulate labor relations between public employers and employees, including the designation of employee representatives, negotiation of wages, hours and other conditions of employment, and resolution of disputes under collective bargaining agreements.
>
> It is the purpose of the purpose of this Act to prescribe the legitimate rights of both public employees and public employers, to protect the public health and safety of the citizens of Illinois, and to provide peaceful and orderly procedures for protection of the rights of all." 5 ILCS 315/2 (West 2006).

Accordingly, we find that the provisions in Labor Relations Act encapsulate a public policy recognizing and protecting the rights of employers *and* employees subject to collective bargaining agreements. We do not, however, find that Arbitrator Kravit's decision violated that

policy. The record reflects that the Village's efforts to discontinue its existing minimum manning policy was commenced in response to budgetary concerns; however, it necessarily affected issues concerning the wages, hours, and conditions of employment of the Union members. Accordingly, the issue involved was one that affected both conditions of employment as well as managerial rights. See, *e.g.*, *Chicago Park District v. Illinois Labor Relations Board, Local Panel & Service Employees International Union, Local 73*, 354 Ill. App. 3d 595, 601-03 (2004) (finding that the reduction of hours worked by part-time employees as a result of financial constraints was an issue that affected wages, hours, and terms of conditions of employment as well as managerial rights). In hybrid situations, when the issue affects both conditions of employment and managerial authority, courts traditionally employ a balancing test to determine whether the issue should be subject to the mandatory bargaining requirements of section 4. *Id*.

Here, however, no such test is necessary as the Village agreed to implement and abide by a minimum manning requirement by including Section 7.9 into the parties' Agreement. Indeed, although section 4 of the Labor Relations Act provides that employers are "not * * * required to bargain over matters of inherent managerial policy" it does not prohibit the employer from engaging in bargaining with a union over matters that it is not obligated by law to bargain over. 5 ILCS 315/4 (West 2006). Moreover, section 4 clearly provides that employers "are required to bargain collectively with regard to any matter concerning wages, hours or conditions of employment about which they have bargained for and agreed to in a collective bargaining agreement prior to the effective date of this Act." 5 ILCS 315/4 (West 2006).

By resolving a dispute between minimum manning requirements that were bargained for

between the parties, we do not find that Arbitrator Kravit's award violated any public policy protecting employers' managerial rights. Instead, by requiring the Village to abide by its minimum manning policy and bargain for any changes thereto instead of unilaterally permanently changing the policy, the award effectuates the underlying policy of the Labor Relations Act, which is to protect the rights of employers and employees that are party to collective bargaining agreements and give effect to the provisions contained therein. Moreover, given testimony indicating that the minimum manning requirements represented the number of personnel needed for effective and safe fire prevention, we further find that by enforcing the minimum manning requirement and preventing the Village from unilaterally lowering the number of personnel assigned to work per shift or eliminating pieces of equipment from use, Arbitrator Kravit's award served to support the strong public policy in Illinois that promotes safe and effective fire prevention services. See *Chicago Fire Fighters Union Local No. 2 v. City of Chicago*, 323 Ill. App. 3d 168, 176-77 (2001) (delineating the statutory enactments that reflect Illinois' strong public policy in favor protecting the public from fire). Accordingly, we reject the Village's argument that the arbitration award violates public policy.

For the reasons set forth herein, we find no basis requiring reversal of the arbitration award, and, accordingly, we affirm the trial court's summary judgment order. We now address the Union's cross-appeal.

Cross-Appeal

On cross-appeal, the Union argues that the trial court erred in denying its motion for Illinois Supreme Court Rule 137 sanctions against the Village. Given the deference afforded to

arbitration awards, the Union argues that the Village's filing seeking to vacate, modify or correct the arbitration award was not supported by legal authority. Moreover, because the trial court failed to provide a factual basis for its ruling, the Union argues that the trial court's denial of its motion for sanctions should not be afforded discretion on review.

The Village responds that the trial court correctly denied the Union's motion for sanctions because the arguments made in its motion to vacate, modify, or correct the arbitration award were made in good faith and were reasonable in light of the established facts and the controlling law.

Pursuant to Supreme Court Rule 137, the trial court is authorized to impose sanctions against a party that files frivolous pleadings that have no basis in fact or law. Ill. S. Ct. R. 137; *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 72 (2009). The underlying purpose of Rule 137 is to penalize a party that makes vexatious or harassing filings. *Morris v. Harvey Cycle & Camper, Inc.*, 392 Ill. App. 3d 399, 407 (2009); *Baker v. Daniel S. Berger, Ltd.*, 323 Ill. App. 3d 956, 963 (2001). Rule 137 sanctions, however, are not to be used simply to punish zealous litigants who are merely unsuccessful. *Morris*, 392 Ill. App. 3d at 407; *Baker*, 323 Ill. App. 3d at 969. To avoid sanctions, the party against whom the motion is filed must present "objectively reasonable" arguments to support its point of view. *Gambino,* 398 Ill. App. 3d at 73; see also *Baker*, 323 Ill. App. 3d at 963 (recognizing that in evaluating the conduct of a party for purposes of Rule 137 sanctions, "the court must determine what was reasonable at the time of filing. Thus the standard to be used in applying the rule is an objective one"). The decision whether or not to impose sanctions against a party is a matter of discretion, and accordingly, the

trial court's ruling on a motion for sanctions will not be reversed absent an abuse of that discretion. *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998). However, the court's ruling on a motion for sanctions must clearly set forth the basis for its decision to be entitled to this deferential standard of review. *Peterson v. Randhava*, 313 Ill. App. 3d 1, 7 (2000); *In re Marriage of Adler*, 271 Ill. App. 3d 469, 476-77 (1995). In reviewing a trial court's ruling on a motion for sanctions, the primary consideration is " 'whether the trial court's decision was well-informed, based on valid reasoning, and follows logically from the facts.' " *Sterdjevich v. RMK Management Corp.*, 343 Ill. App. 3d 1, 19 (2003), quoting *Technology Innovation Center, Inc. v. Advanced Multiuser Technologies Corp.*, 315 Ill. App. 3d 238, 244 (2000).

Initially, we disagree with the Union that the trial court failed to adequately set forth and explain the basis for its denial of its motion for Rule 137 sanctions. It is apparent from the record that the trial court's denial was predicated on its belief that although the Village was unsuccessful in challenging the arbitration award, its challenge was made in good faith. Specifically, in delivering its ruling, the trial court stated that while it did not "think much" of some of the Village's arguments, it "believe[d] *** that there was a *bona fide* dispute in this case, and I don't see that there is any bad faith on the part of the Village." Although the court did not address each of the allegations of misconduct contained in the Union's motion, it is apparent that the trial court heard and considered the arguments from both parties and was aware of the history of the case prior to rendering its ruling. See *Technology Innovation Center, Inc., v. Advanced Multiuser Technologies Corp.*, 315 Ill. App. 3d 238, 245-46 (2000) (Affording deference to the trial court's ruling on a motion for Rule 137 sanctions even though the court did not address each allegation

of misconduct individually because it was apparent that the court was aware of the history of the case and gave consideration to the allegations as a whole). Accordingly, we find that the trial court set forth a sufficient basis for its ruling, and that its decision is entitled to deference on review.

Moreover, we further find that the court's denial of the Union's motion for sanctions did not constitute an abuse of discretion. In its challenge to the arbitration award, the Village argued that the award should be vacated because: (1) the arbitrator lacked jurisdiction; (2) the arbitrator exceeded his authority by ruling on apparatus minimum manning; (3) the arbitrator exceeded his authority in ruling on shift minimum manning; (4) the arbitrator did not have the authority to interpret unambiguous language in the Agreement concerning minimum manning; (5) the arbitrator was not fair and impartial; and (6) the award violated public policy. Aside from an objection to Arbitrator Kravit's impartiality, the Village raises all of these arguments on appeal. We do not find these arguments to be frivolous; rather, we agree with the trial court that there was a *bona fide* dispute in this case and that the Village's challenge to the arbitration award was not objectively unreasonable or brought in bad faith. Although there certainly is a strong policy in favor of arbitration and upholding arbitration awards, the Village was nonetheless entitled to litigate zealously and challenge the award. Indeed, despite the deference afforded to arbitration awards, the Arbitration Act nonetheless expressly contemplates the reversal of awards in certain limited circumstances. See 710 ILCS 5/12(a) (West 2006); *Water Pipe Extension, Bureau of Engineering Laborers' Local 1092 v. City of Chicago*, 318 Ill. App. 3d 628, 635 (2000). While the Village's motion to vacate the award was ultimately denied, the purpose of Rule 137 is not to

punish zealous litigants who are merely unsuccessful. *Morris*, 392 Ill. App. 3d at 407; *Baker*, 323 Ill. App. 3d at 969. Because we find that the trial court's ruling was well-informed and based on valid reasoning, we affirm the trial court's denial of the Union's motion for Rule 137 sanctions.

CONCLUSION

For the reasons explained herein, we affirm the orders entered by the trial court.

Affirmed.