

GREGORY L. HELBIG

v.

DONALD J. COTE

Submitted on Briefs June 21, 2023
Decided August 8, 2023

Panel: STANFILL, C.J., and MEAD, JABAR, HORTON, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Donald J. Cote appeals from a judgment of the Business and Consumer Docket (*Duddy, J.*) granting Gregory L. Helbig's application to confirm an arbitration award that resolved a dispute between Cote and Helbig. Cote contends, inter alia, that the court should have instead vacated the arbitration award because the parties' dispute was not substantively arbitrable.¹

"We have consistently held that the Uniform Arbitration Act provides two separate avenues for determining the substantive arbitrability of a particular dispute: (1) a motion to compel or stay arbitration and (2) a motion to vacate an arbitral award. These two means are exclusive" *State v. Philip Morris, Inc.*, 2007 ME 90, ¶¶ 15-16, 928 A.2d 782 (citations and quotation marks omitted). After an arbitration award has been issued, the only avenue for challenging the award is through an application to vacate, which must be filed

¹ We are not persuaded by Cote's argument that the arbitrator or the court erred by declining to appoint a guardian ad litem. See *Kelley v. Snow*, 2009 ME 128, ¶¶ 12-13, 984 A.2d 1281; M.R. Civ. P. 17(b).

by motion. *See* 14 M.R.S. § 5942 (2023); *Anderson v. Banks*, 2012 ME 6, ¶ 13 & n.8, 37 A.3d 915. Here, in response to Helbig’s application to confirm the award, Cote filed a “motion to stay proceedings/defendant’s answer and opposition.” As relief, Cote requested only that the court stay Helbig’s separate pending eviction action against him. He did not ask the court to stay the arbitration proceedings (which would have been unfruitful in any event because the award had already issued), and he did not ask the court to vacate the arbitration award. Because Cote did not challenge the award in the manner required by the Act, the court did not err when it confirmed the award and summarily denied Cote’s motion.²

Finally, we have considered Helbig’s motion for sanctions against Cote for the filing of this appeal, *see* M.R. App. P. 13(f), and we decline to impose sanctions. *See* M.R. App. P. 13(f); *Lincoln v. Burbank*, 2016 ME 138, ¶¶ 46-64, 147 A.3d 1165.

The entry is:

Judgment affirmed.

Joseph M. Baldacci, Esq., Bangor, for appellant Donald J. Cote

David A. Soley, Esq., and James G. Monteleone, Esq., Bernstein Shur, Portland,
for appellee Gregory L. Helbig

Business and Consumer Docket docket number RE-2023-1
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² Given the basis for our decision, we do not reach Cote’s argument that the court erred by confirming the arbitration award without first holding an evidentiary hearing to determine substantive arbitrability.