

JOHN T. DARLING

v.

TMB, INC. d/b/a CELL PHONES ‘N MORE

Submitted On Briefs May 29, 2008

Decided July 29, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER,
MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

John T. Darling appeals from the confirmation of an arbitration award entered in the Superior Court (Cumberland County, *Crowley, J.*). Darling contends that the court erred in compelling the parties to enter into binding arbitration pursuant to their employment contract. He argues that the arbitration policy is unenforceable because it lacks consideration, it violates public policy, and it is unconscionable. We do not reach the merits of Darling’s arguments because they have not been properly preserved. *See State v. Rega*, 2005 ME 5, ¶ 17, 863 A.2d 917, 922 (“When a party affirmatively agrees to a court action, that party has failed to preserve the action for appellate review.”). After the Superior Court denied Darling’s motion to terminate arbitration, Darling requested that the arbitrator enter an award in favor of Cell Phones ‘N More. Moreover, when the arbitration award in favor of Cell Phones ‘N More was before the Superior Court, Darling moved the court to confirm that award. Accordingly, he cannot now, on appeal, attack that same award. *See id.*

The entry is:

Judgment affirmed.

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