

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D21934
C/kmg

_____AD3d_____

Argued - December 19, 2008

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RUTH C. BALKIN
RANDALL T. ENG, JJ.

2007-07509

DECISION & ORDER

In the Matter of Linda DiMeglio, petitioner-respondent,
v Village of Briarcliff Manor, New York, appellant,
Michael S. Blau, etc., respondent.

(Index No. 23186/06)

Lamb & Barnosky, LLP, Melville, N.Y. (Richard K. Zuckerman, Scott M. Karson, and Michael F. Mullen of counsel), for appellant.

Baker, Leshko, Saline & Blosser, LLP, White Plains, N.Y. (Anthony C. Saline and Mitchell J. Baker of counsel), for petitioner-respondent.

In a proceeding pursuant to CPLR article 78 to vacate an arbitrator's opinion and award dated July 31, 2006, which sustained the determination of the Village of Briarcliff Manor, New York, denying the petitioner disability benefits under General Municipal Law § 207-c, the Village of Briarcliff Manor, New York, appeals, as limited by its brief, from so much of an order of the Supreme Court, Westchester County (Adler, J.), entered July 17, 2007, as denied that branch of its motion which was to dismiss the petition insofar as asserted against it.

ORDERED that the appeal is dismissed, with costs, as no appeal lies as of right from an order in a proceeding pursuant to CPLR article 78 (*see* CPLR 5701[b][1]) and leave to appeal has not been granted (*see Matter of Pace v Pleus*, 306 AD2d 350; *Matter of Young Israel of Merrick v Board of Appeals of Town of Hempstead*, 304 AD2d 834).

MASTRO, J.P., FLORIO, BALKIN and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

January 27, 2009

MATTER OF DiMEGLIO v VILLAGE OF BRIARCLIFF MANOR, NEW YORK