

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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TP 08-01582

PRESENT: SMITH, J.P., CENTRA, FAHEY, PERADOTTO, AND PINE, JJ.

IN THE MATTER OF STEPHEN EBLING, PETITIONER,

V

MEMORANDUM AND ORDER

TOWN OF EDEN, RESPONDENT.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (JOHN M. LICHTENTHAL OF COUNSEL), FOR PETITIONER.

WILLIAM J. TRASK, SR., BLASDELL, FOR RESPONDENT.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Erie County [Kevin M. Dillon, J.], entered July 18, 2008) to annul a determination of respondent. The determination terminated petitioner's employment.

It is hereby ORDERED that the determination is unanimously confirmed without costs and the petition is dismissed.

Memorandum: Petitioner commenced this CPLR article 78 proceeding seeking, inter alia, to annul the determination terminating him from employment following a hearing pursuant to Civil Service Law § 75. We reject petitioner's contention that the determination is not supported by substantial evidence (*see generally 300 Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176, 180-182). Rather, we conclude that the evidence presented at the hearing included "such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact" (*id.* at 180). Contrary to the further contention of petitioner, he was not denied his right to a fair hearing by the admission of hearsay evidence (*see generally Matter of Gray v Adduci*, 73 NY2d 741, 742; *Matter of Gates of Goodness & Mercy v Johnson*, 49 AD3d 1295).

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court