

**THE DISPUTES RESOLUTION AUTHORITY
DECISION DATED THE 29TH DAY OF MAY 2007
AT MONAGHAN
DRA/12/2007**

Between

PÁDRAIG Ó BROLCHÁIN (PADDY BRADLEY)

Claimant

And

DANNY SCULLION

(Nominee of Coiste Chontae Dhoire Hearings Committee)

&

DÓNAL Ó MURCHÚ

(mar Ionadaí Ar Son Comhairle Uladh)

Respondents

We, the undersigned, have found as follows:

Background

1. Patrick Bradley is a player with John Mitchel's Glenullin GFC. He and his club were involved in a Derry Senior Football League game versus Loup on Saturday 14th April 2007. Mr Bradley was sent from the pitch for what is described in the Official Guide as a Category II infraction, namely foul and abusive language towards a referee. After the match Mr Bradley was cited for having committed a Category IV infraction, namely minor physical interference towards a referee.
2. The Competitions Control Committee (hereinafter the CCC) of the Derry County Committee met and having considered the report of the referee (which comprises a pro forma document and an additional sheet of paper) they decided to serve a Notice of Disciplinary Action on the Claimant, Mr Bradley. The Notice detailed that it was proposed by the CCC to suspend the Claimant for four weeks and twelve weeks for the Category II and Category IV offences respectively.
3. As is his entitlement, Mr Bradley requested a hearing before the County Derry Hearings Committee. This hearing took place on the 30th April 2007 and the Hearings Committee imposed a twelve week

suspension upon the Claimant, the twelve weeks to run from the date of the relevant match.

4. The Claimant appealed to the Ulster Council and that appeal was heard on the 10th May 2007. It is accepted that Mr Bradley was afforded a full re-hearing of his case before the Ulster Council. The Ulster Council upheld the decision of the County Derry Hearings Committee.

CLAIMANT'S CASE

5. The Claimant's case involved a number of strands but it was accepted by Mr Logan, the Claimant's representative, that there were three main issues to be adjudicated upon by the Tribunal.
 - a) That by reason of the failure of the CCC to prepare a Disciplinary Report (as provided for in Rule 144 of the Official Guide) in respect of the Claimant's case the CCC had thereby acted in breach of its obligations pursuant to the Rules. Mr Logan canvassed two positions. Firstly, that a Disciplinary Report, on a strict and proper interpretation of the Rules, is required to be compiled in every instance that a player requests an oral hearing. Secondly, such as the CCC may have a discretion as to when a Disciplinary Report is commissioned, that such were the circumstances of the Claimant's case, the CCC ought properly to have exercised its discretion to commission a Disciplinary Report.
 - b) That the Derry County Committee was illegally constituted and that any decisions made by it or by any of its constituent committees must be deemed void. The substance of Mr Logan's argument is that the 2007 County Derry Bye-Laws required that all persons appointed to positions on the County Committee required to be elected at the Annual County Convention. Mr Logan argued that since a number of positions (including but not limited to the position of County Post Primary Schools Representative) had not been elected at the Annual Convention, the provisions of Bye-Law 3.00 had been contravened.
 - c) That Rule 144(u) and the principles of Natural and Constitutional Justice had been violated by reason of the appointment to the Hearings Committee of a Mr Kevin Toner. It was common case that Mr Toner was a fellow clubman of Barry Cassidy, the referee that had officiated at the Glenullin v Loup SFL game. Furthermore it was accepted that Mr Toner was a regular member of Mr Cassidy's umpiring team and had officiated with him on an unspecified number of occasions. Given what Mr Logan argued was a close personal relationship between Mr Toner and Mr Cassidy, and given the nature of the charges levied against Mr. Bradley, Mr Logan

argued that it was improper that Mr Toner should have been a member of the Hearings Committee that suspended Mr Bradley.

FINDINGS

6. The Tribunal's findings are as follows:
 - a) That a Disciplinary Report was not required to be commissioned in the Claimant's case. The Tribunal is satisfied that the contents of the Referee's Report together with the contents of the Notice of Disciplinary Action (20th April 2007) are clear and unambiguous. The Tribunal finds that the Hearings Committee did not require an investigation to enable it to properly adjudicate on the Claimant's case. Furthermore, the Tribunal has no doubt that the Claimant was at all times fully aware and cognisant of the charges brought against him and that he was in no way prejudiced by the CCC's decision not to commission a Disciplinary Report. The Tribunal in arriving at this decision has had regard to the Guidelines that have been furnished to County Committees in respect of the proper enforcement of the Association's disciplinary procedures. These Guidelines detail that in the vast majority of cases there will be no need for a Disciplinary Report. The Guidelines state that it is only in more "complicated cases" that a Disciplinary Report shall be required. The Tribunal is wholly satisfied that the Claimant's was not such a "complicated case".
 - b) The Tribunal is not satisfied that the Derry County Committee was improperly constituted. Whilst it is clear that the positions required to be filled by election pursuant to the 2007 County Derry Bye Laws have not been so filled, the Tribunal finds that the 2007 Bye Laws were not operational at the 2006 Annual Convention when the election of the County Committee took place. The Tribunal has not been furnished with a copy of the County Derry Bye Laws that were in effect at the 2006 Annual Convention and cannot know what positions were required to be filled by election pursuant to those Bye Laws. On the evidence adduced, therefore, the Tribunal cannot be satisfied that the County Committee is improperly constituted.
 - c) The Tribunal does not believe that there has been a breach of Rule 144(u) in appointing Mr Toner to the Hearings Committee. Rule 144(u) requires any person that has a role in "*relation to any Member, Team or Unit involved in the proceedings*" to stand down. The Tribunal does not believe that Mr Cassidy, the referee, can be regarded as having been involved in the proceedings. The Tribunal finds that Mr Cassidy was not a party to the proceedings involving Mr Bradley. As against that, the Tribunal finds that the nature of the relationship between Mr Cassidy and Mr Toner was such, and the personal nature of the verbal and physical interference alleged against Mr Bradley was such, as to render inappropriate and improper Mr Toner's involvement on the Hearings Committee.

Whilst the Tribunal makes no finding of actual bias against Mr Toner (no such argument was canvassed), the Tribunal is concerned that there may and could have been a perception of bias about the constitution and operation of the Hearings Committee in the Claimant's case. The Tribunal finds that this perception serves to taint the decision of the Hearings Committee. For that reason the Tribunal believes the decision of the County Derry Hearings Committee offends the principles of natural and constitutional justice and ought therefore to be set aside.

DETERMINATION

7. The Tribunal directs:
- a) That the matter be returned for adjudication by the County Derry Hearings Committee.
 - b) That no person that previously adjudicated on the Claimant's case shall form part of the freshly constituted Hearings Committee.
 - c) That the Hearings Committee shall furnish the Claimant with seven clear days notice of its intention to re-hear his case. The Claimant may agree to an abridgement of that time period.
 - d) That in the event that the Hearings Committee has not concluded the Claimant's case on or before the 31st day of July 2007, it shall be precluded from proceeding with it. (For the avoidance of any doubt it is a requirement that the hearing shall have been concluded and that the Claimant shall have been furnished with details of the Hearing Committee's adjudication on or before the 31st July 2007).
 - e) That pending the said re-hearing, and pending adjudication by the Hearings Committee and notification to Mr Bradley of its decision, the Claimant's suspension shall be stayed;
 - f) That the portion of the suspension already served by the Claimant shall be taken into account and shall be deducted from any suspension that the Hearings Committee may ultimately impose upon Mr Bradley;
 - g) That the Claimant, if he wishes to accept the suspension already imposed by the Hearings Committee, shall write to the Tribunal (care of the Secretary of the DRA) to so indicate. In the event that the Claimant plays a match for either his club or county he shall no longer be entitled to exercise this option;
 - h) That there be no order in respect of costs;
 - i) That the DRA expenses relating to this arbitration be split with 50% to be paid by the Claimant and 50% to be paid by the Respondents;
 - j) Liberty to apply;

Aaron Shearer

Aoife Farrelly

Padraig Brennan