

DISPUTES RESOLUTION AUTHORITY

Record No. DRA/7/2007

**IN THE MATTER OF THE ARBITRATION ACTS 1954 TO 1980
AND
IN THE MATTER OF AN ARBITRATION BETWEEN**

**DECISION DATED THE 20TH DAY OF JUNE 2007
AT MULLINGAR**

Between

SEÁN Ó h-AOLAÍN (JACKIE HYLAND)

Claimant

AND

PÁDRAIG Ó BOUAIDH (PAT BOOTH)

(mar ionadaí ar son Cumann Peile an Fraoch)

&

MÍCHEÁL MAC RAGHNAILL (MICHAEL REYNOLDS)

(mar ionadaí ar son Coiste Éisteachta Laighean)

&

NIALL MAC a'LAITHIMH (NIALL HANDY) &

RISTEARD Ó MUILLEOIR (RICHARD MILLER)

(mar ionadaí ar son Cumann Luthchleas Gael Chontae Laoise)

Respondents

We, the undersigned, have found as follows:

Background

Jackie Hyland is a member of Cumann Peile an Fraoch, hereinafter referred to as Heath Football Club, Portlaoise, Co. Laois, since 1962. He is challenging a decision of the first named respondent, Heath Football Club to suspend him for a period of 96 weeks from 6th

"Implementing the Disputes Resolution Code of the GAA"

December 2006 for allegedly discrediting the club and Cumann Luthchleas Gael. Mr. Hyland and a number of local farmers were involved in High Court proceedings against Heath Football Club, the nature of which cannot be revisited by this Tribunal.

Mr. Hyland appealed his suspension to Coiste Contae Laoise (hereinafter CLG Laoise). The matter was dealt with by Coiste Bainistí on 22nd January 2007, Coiste Bainistí sought clarification on a specific Rule and the meeting reconvened on Wednesday 24th January 2007. On that date, it was deemed that Heath Football club were in breach of Rule 10(c), Treoir Oifigiúil 2006 and Mr. Hyland's appeal was upheld.

The Heath Football club appealed this decision to Coiste Éisteachta Laighean and this appeal was heard on 26th February 2007. Coiste Éisteachta Laighean upheld the appeal of Heath Football Club and determined that the suspension hearing should be reprocessed without reference to Rule 10.

On 7th March 2007, Coiste Bainistí Laoise reheard the appeal of Mr. Hyland without reference to Rule 10(c) of Treoir Oifigiúil 2006 and 2007. It was proposed that the letter of 6th December 2006 from Heath Football Club be put before Coiste Bainistí Laoise and Mr. Hyland's suspension be ratified.

On 26th March 2007, Coiste Bainistí Laoise ratified Mr. Hyland's suspension as recommended in the letter of 6th December 2006 from Heath Football Club to Mr. Hyland.

This decision is for consideration before this Tribunal.

At various stages throughout the hearing of this appeal, reference was made to Treoir Oifigiúil and various rules set out therein. The case covers a period from 2006 - 2007 when the rule book was under review. There were three official rule books in existence at that time: Treoir Oifigiúil 2006, Treoir Oifigiúil October 2006 (Internet version) and Treoir Oifigiúil 2007. Owing to this confusion, parties are not strictly bound to rules quoted in papers submitted.

CLAIMANT'S CASE

There are a number of aspects to the claimant's case and the Tribunal has adjudicated on the following issues:

- i). That an individual should not be penalised for exercising their property rights before the Courts.
- ii). That the first named respondents are guilty of excessive delay in that the High Court proceedings referred to above commenced in 2000 and the first letter received by Mr. Hyland in relation to his alleged conduct was received on 28th November 2006.
- iii). That correspondence received by Mr. Hyland from Heath Football Club in relation to the above proceedings and to his alleged breach of rules was not in order as it breached Rule 10 of Treoir Oifigiúil. Furthermore, that correspondence regarding this suspension which was sent to CLG Laoise was also in breach of this rule.
- iv). That the notification of his suspension cited rules which had no relevance to the issues concerned.

"Implementing the Disputes Resolution Code of the GAA"

- v). That a club does not have the right to suspend an individual for 96 weeks.
- vi). That all respondents are guilty of breaches of natural justice in that he was not present at a number of hearings which related to his suspension and that the respondents are guilty of breaches of Rule 144 z (3) T.O. 2007.
- vii). That minutes of both Heath Football Club meetings and CLG Laoise were not conveyed to him following requests in accordance with Rule 152 (k) T.O. 2007.
- viii). That Mr. Hyland was not notified of the outcome of his appeal in accordance with Rule 152 (n) T.O. 2007.
- ix). That Heath Football Club is guilty of discrimination in that while other members of the club were involved in the High Court proceedings, only Mr. Hyland was suspended.

FINDINGS

The Tribunal refers to the decision of McMahon J in Barry and ***Rogers -v- Ginnity & others*** judgment delivered on 13 April 2005, Naas Circuit Court wherein Judge McMahon states that
“the association, of course, will be expected to adhere to its own procedural standards in making disciplinary decisions.”

He further states that

“the more serious the consequences, the higher the standard that will be required.”

At the same time, the Tribunal also acknowledges that

“...one must expect that laymen applying the disciplinary rules will occasionally do so in a somewhat robust manner. Provided those administering the rules, however, do so in a bona fide manner, giving each side a fair opportunity of participating, the onus on members who wish to challenge findings and decisions is a heavy one”.

- i). The Tribunal is satisfied that a suspension of 96 weeks involves serious consequences for the member and as such, the disciplinary process must be strictly adhered to.
- ii). The Tribunal finds that the first named respondents did not adhere strictly to Rule 10 (c) regarding the use of the Irish language on official documents and correspondence.
- iii). The first named respondents are not guilty of excessive delay in bringing these proceedings as the High Court proceedings were compromised only in October 2006.
- iv). The club has a right to suspend an individual for a period of 96 weeks once this is provided for in their club constitution. While T.O. cites minimum periods of suspension, that it is silent on the question of maximum periods of suspension.
- v). That Rule 152 (k) T.O. 2007 was not strictly adhered to by all respondents. While there may have been miscommunication among the parties with regard to providing minutes of meetings to Mr. Hyland, the onus is on the respondents to ensure that he received same and accordingly, the Tribunal finds that there was a breach of Rule 152 (k) T.O. 2007.

“Implementing the Disputes Resolution Code of the GAA”

- vi). That Heath Football Club is not guilty of discrimination in only suspending Mr. Hyland. The Tribunal finds that the club are not obliged to look beyond the Plaintiffs listed in the proceedings.
- vii). That Coiste Éisteachta Laighean breached Rule 144 z (3) T.O. 2007 in that Mr. Hyland was not present at a hearing which decided on his suspension.

DETERMINATION

The Tribunal has taken all the above findings into account and concludes that the respondents have not strictly adhered to disciplinary procedures as is required of them. The Tribunal determines that, given the serious consequences for the claimant, that failure to adhere to said procedures in the appropriate manner must render the claimant's suspension invalid.

COSTS

The Tribunal finds as follows:

- There is no order as to costs;
- That all three respondents are guilty of procedural defects and accordingly direct that the Tribunal's costs are split between them;
- Liberty to apply.

Oliver Shanley (Chairman)

John Fay

Aoife Farrelly

"Implementing the Disputes Resolution Code of the GAA"