

**AN CORAS EADRANA
DISPUTES RESOLUTION AUTHORITY**

DRA 15/2014

IN THE MATTER OF THE ARBITRATION ACT 2010

CUMANN PEIL OLLSCOIL NA BUNRIONA

CLAIMANT

AND

AN LAR-CHOISTE ACHOMHAIRC (CUMANN LUTCHCHLEAS GAEL)

RESPONDENTS

CONSTITUTION OF ARBITRAL PANEL

1. Whereas An Coras Eadrana (The Dispute Resolution Authority) appointed in accordance with their rules Mr. Patrick McCartan, Mr. David Curran Solicitor and Mr. Arran Dowling-Hussey Barrister-at-Law as a Panel of Arbitrators, DRA 15/2014, to hear the instant arbitral reference. The aforesaid nominees all accepted their appointment knowing of no reason that would impede them discharging their duties as arbitrators.

2. Whereas the duly appointed Panel nominated Mr. Dowling-Hussey to act as the Chairman

3. Whereas there was an oral hearing of the said reference DRA15/2014 from roughly 830 until 10pm at the Carrickdale Hotel, Ravensdale, Dundalk, County Louth.

4. Whereas the Chairman explained to all the parties at the commencement of the hearing that he knew Professor Jack Anderson, of Queen's University, Belfast, who was in attendance with the claimants. *Inter alia* the Chairman was a former member of staff at the School of Law at Dublin City University and lectured in a subject wherein Professor Anderson was his external examiner. Neither party had a problem with what was set out by the Chairman. No suggestion was made that the Chairman had a conflict that would stop him discharging his duties and the Chairman stated that he felt able to sit on the Tribunal.

5. Whereas the written decision herein is not a transcript of the hearing on November 14, 2014 however all written and oral submissions that were made to the Tribunal have been fully considered by it. Any lack of a reference to a written or oral submission made, or part thereof, does not in any way indicate that the submission was not properly considered.

SUMMARY OF FACTS OF DISPUTE

6. Cumann Peil Ollscoil na Banriona, Beal Feirste/ Queen's University Belfast (hereafter the "Claimant") made written and oral submissions setting out the case they made. The former submissions were set out *inter alia* on the Dispute Resolution Authority (hereafter "DRA") Form 1: Request For Arbitration. Mr. Fergal Logan solicitor represented the Claimant.

7. An Lar-Choiste Achomhaire/ Cumann Luthchleas Gael (hereafter the "Respondent") made written and oral submissions rebutting the case made by the Claimant. Mr. Liam Keane and Mr. Joe Flynn represented the Respondents.

8. The issue before the Tribunal was a technical issue of construction that arose as a preliminary issue during the course of a wider appeal. It is not necessary in considering this appeal which just relates to the decision made on the preliminary issue to go into the wider substantive appeal in any way.

9. The appeal paper signed before the aforesaid appeal hearing was signed by Sean Mac Ghille Aindraís as acting Secretary of the Claimant club. The elected club Secretary stood suspended at the relevant time.

10. An Lar-Choiste Achomhairic considered the preliminary issue and decided that the appeal was not properly constituted. This decision was made as it was said that Rial 7.11(g) (T.O 2014) mandated that all appeals must be signed by the Secretary or in his absence the Assistant Secretary provided the absence has been officially notified in writing to the body in charge as per Rial 4.5 T.O 2014

PARTIES SUBMISSIONS

11. It was not in dispute between the parties that a bare email would satisfy the notification requirements of Rial 4.5 T.O 2014. Further it was accepted between the parties that no such email (or indeed letter, facsimile or other form of written correspondence) was sent so as to make the requisite notification.

12. The Claimant argued that the acting Secretary had assumed the powers and functions of the post of Secretary. As per Rule 1 of the GAA Club Constitution he is regarded as performing the role of Secretary. It was argued that if the acting Secretary could not sign the appeal the club would be barred from pursuing appeals as no other person could sign the relevant form.

12. In short the Respondent placed full reliance on what it said were the black letter law terms of Rule 7.11(g). It set out that due to the size and voluntary nature of the association it was not administratively possible to 'head off such issues at the pass' and advise clubs that they so to speak needed to mend their hand.

FINDINGS

14. The Tribunal found that the terms of Rule 7.11(g) were clear and unequivocal. The general case law of the DRA, no one particular case is relied on in this finding, requires the Tribunal to apply the normal everyday meaning of the words used in the rules to questions of interpretation. The word that the Tribunal had to consider 'absent' was on the dictionary definition handed up to us a word which can be defined as:

“absent 1. Not present. 2. Not existing; lacking. 3. Inattentive..’

15. Thus it is the case that we find that on a normal every day reading of the English language a club official who is suspended is 'absent' within the meaning of Rule 7.11(g) even if they remain in the Town or City that the said club is located in. The construction of the relevant language here and the application of the common sense approach that we are bound to follow means that the 'absence' is in relation to their duties as a club official no more and no less. A simple process exists to allow the club to continue to run within the wider framework of the association and in accordance with its rules which is described below.

16. 7.11(g) simply outlines that in the case of a Club, Committee or Council an appeal shall be signed by its Secretary but, as in this case, when the Secretary was unavailable his replacement should have been officially notified as per 4.5. It is administratively easy for a club to then follow the terms of Rule 4.5 in relation to notification. As set out an email would have been all that was needed to address this issue.

14. The Club Constitution or any part thereof referred to is merely a guideline that does not supplant the relevant and mandatory rules.

17. The Claimant failed in their application. The costs associated with the DRA constituting the Panel of Arbitrators herein shall be deducted from their deposit and the balance of the said deposit shall then be returned to them.

Arran Dowling-Hussey Barrister

David Curran Solicitor

Patrick McCartan

Dispute Resolution Authority, Mullingar

November 28, 2014