

Disputes Resolution Authority

An Córas Eadrána

DRA 06/2014

***Cumann Gaeil An Iathair CLG v Coiste Eisteachta Chonnacht
&
Coiste Chontae Shligigh***

DECISION

By a request for arbitration dated the 29th April 2014 and signed by Donal Ó Ciarba Runai, the Claimant club (Western Gaels) sought an order from the DRA quashing a decision taken by Sligo County Committee on the 8th April 2014 to allow the formation a new club “Na Fianna”. The Claimant also sought an order from the DRA setting aside or quashing a decision of Connacht Council dated the 24th April 2014 which upheld the decision of Sligo County Board taken on the 8th April 2014.

The background to the case is that the Claimant club is based in West Sligo and is a hurling club drawing from a number of football clubs. Hurling in west Sligo had been organised for a period of time on foot of an agreement ratified at a meeting of Sligo County Committee on the 5th April 2011 whereby it was agreed that hurling would be catered for in west Sligo by Western Gaels. The parties are not in agreement as to whether this 2011 agreement was adhered to. A hurling review had taken place in Sligo and arising from that hurling review a discussion took place at the meeting of Sligo County Board on the 1st April 2014 regarding a written request that had been received to form a new club in the western part of the County.

Western Gaels, the Claimant, were very clearly of the view that Sligo County Board had received a request for the formation of a new club “Na Fianna” at its meetings on the 1st April and 8th April 2014. In a detailed submission presented to the Tribunal at this Hearing Mr. Gareth McDermott, Solicitor for Sligo County Board, outlined his client’s position that they were never dealing with a request for the formation of a new club but rather were dealing with a request for the formation of an underage hurling grouping which was intended to deal with underage hurling only.

Mr. Connor Sally Solicitor acting for the Claimant Western Gaels outlined to the Tribunal that the request for arbitration and the submissions which he was presenting to the hearing were based on the assumption by Western Gaels that the matter that came before Sligo County Board on the 1st and 8th April 2014 related to the formation of a new club. However, Mr. Sally submitted that even if it was the case that Sligo County Board were not dealing with a request to form a new club but rather an underage structure that a

number of the submissions that the Claimant was making were in any event relevant to the formation of any new underage hurling structure in the western part of the county and the submissions made by Connor Sally on behalf of the Claimant club can be summarised as follows: -

1. The change in the rules regarding the use of permits to facilitate players from a sole football club playing hurling with another club had been altered at congress in 2014 which had brought to a head some anomalies in the arrangements for provision of underage hurling in western Sligo.
2. Western Gaels had submitted to the County Board meeting on the 1st April 2014 and further special meeting of the County Board on the 8th April 2014 that the manner in which it was being proposed to form a new club known as “Na Fianna” was in breach of the Treoir Oifigiúil and that Sligo County Board could not affiliate a new club due to the breach of the Treoir Oifigiúil and in particular the provisions of the Treoir Oifigiúil which require as a prerequisite for a club being formed, the existence of an adult team within the club playing either junior, intermediate or senior in a code, an affiliation date of the 1st April had to be adhered to and the number of members who needed to assign the affiliation forms (15) was not adhered to in this case as the signatories to the documentation furnished to the County Board were in fact children.
3. Mr. Sally submitted to the board that the decision to form a new club was in effect a decision by the County Committee to alter a previous decision of the County Committee namely the agreement reached on the 5th April 2011 and ratified by the County Board in relation to the regulation of hurling in the west of Sligo. Mr. Sally submitted that the Treoir Oifigiúil required that the delegates to a County Board be furnished with a notice of the County Boards’ intention to rescind any previous decision and that a 2/3rd majority will be required to do so.
4. Mr. Sally submitted on behalf of the Claimant that Sligo County Committee had sought permission from Central Council by letter dated the 18th April 2014 to deviate from the provisions of rule 3.1 (C) and 3.2 of Treoir Oifigiúil in relation to the formation of this new club but that this deviation had not been granted by Central Council who had opted to defer any decision pending the outcome of this DRA case.
5. Mr. Sally submitted that even in the event that the Tribunal accepted this submission of Sligo County Board that no new club was being formed and that this was simply a new underage structure. Mr. Sally indicated that a deviation from Treoir Oifigiúil was still required under clause 6.7 of Treoir Oifigiúil 2014 in relation to the approval by central council of alternative arrangements by the County Committee for the provision of hurling in Sligo.

In response Mr. Gareth McDermott on behalf of Sligo County Committee submitted to the Tribunal that it was completely disingenuous for the Claimant to suggest that anything other than an underage structure was being formed. He said it was never the case that a new club was being formed and that all of the discussions that had taken place arising from the hurling review related to an underage unit. He outlined that the Treoir Oifigiúil does allow for a new unit to be formed and a derogation could be sought afterwards and that there was no

requirement to seek the derogation from the Treoir Oifigiúil in relation to the formation of a new underage unit in advance of forming that unit. Mr. McDermott submitted that all of the technicalities that applied to the formation of an underage club which had been referred to by the Claimants did not apply in this case. Mr. McDermott further submitted that in relation to this particular underage unit rule 6.7 of the Treoir Oifigiúil did not apply.

Detailed written submissions from the Respondent County Board were received on the night of this hearing by this Tribunal.

Decision and Award

The papers provided to the Tribunal did contain some key items of correspondence in relation to the matter and the Tribunal notes that by an email from the Secretary of Sligo County Board to Teresa Rehill in Croke Park on the 6th March 2014 advice was sought by the Secretary of Sligo County Board in relation to the formation of a new club. The secretary outlined in this email as follows: -

“Rather than play with Western Gaels Hurling Club those involved in hurling in the Naomh Fearnain and lascaigh catchment area wish to form a new juvenile club.

I understand that if this new club does not play at junior championship level, at least, it will require special deviation from rule before being formed.

Would the promoters of hurling in the Naomh Fearnain, lascaigh area be better advised to form an “independent team” rather than going down the road of forming a new club?”

The reply from Teresa Rehill outlined as follows: -

“We are not in a position to advise you as to what is best for clubs in Sligo. It is a matter for the County Committee to make alternative arrangements in the interests of the promotion of Hurling/Football – see rule 6.7 Exception 1. If you wish to submit a proposed arrangement we will be happy to seek the approval of central council”.

Clearly this email exchange shows that the County Committee, through its secretary, was considering both the possibility of forming a new club and seeking a derogation from central council from the requirement to field at adult level and in the alternative were questioning whether the promoters of hurling under the banner “Na Fianna” would be better advised to form an independent team rather than going down the road of forming a new club.

In any event, Sligo County Board discussed the formation of the new club on the 1st April 2014 and by letter dated the 3rd April 2014 the Secretary of Sligo County Board received a request for the formation of a new club signed on behalf of a newly proposed club “Na Fianna”. The documentation lodged with the County Secretary sought to comply with the Treoir Oifigiúil in relation to the formation of a new club.

The minutes of the meeting of Sligo County Committee of the 8th April 2014 show that the proposal to accept the formation of a new club was accepted and by letter dated the 18th April 2014, the secretary of Sligo County Committee wrote to the Ard stiúrthóir seeking a deviation from rule 3.1(c) in relation to the formation of a new club in the following terms: -

“We are seeking (Riail 3.59 and 6.7, B, 1) to allow a deviation from Riail 3.1 (C) in the expectation that a Senior team will eventually and inevitably be fielded by Na Fianna. In so far as it has any relevance to the new club we also seek a deviation from riail 3.2 as the process was ongoing.

The application by members of the proposed Cumann “Na Fianna” is attached”.

Therefore having regard to the submissions received and the documentation submitted by the parties, it is clear that Sligo County Committee accepted a proposal for the formation of a new club, which club was to be known as Na Fianna and a derogation was sought from Central Council seeking the permission of Central Council to affiliate the new club without the necessity of adhering to the requirement to field at adult level.

This Tribunal therefore does not accept a submission of Sligo County Committee made at this hearing that what was intended here was always to be “an underage structure”. That is simply not borne out by the paperwork lodged and contrary to the assertion by Mr. McDermott on behalf of Sligo County Committee that it was disingenuous to suggest that anything other than an underage club was being formed, this Tribunal finds that the Claimant could not have drawn any other conclusion from the documentation received by them and the paperwork lodged other than to decide that a request was being made to the Sligo County Committee to ratify a new club.

On the basis that this Tribunal finds that Sligo County Committee was dealing with a request to form a new club. We find that it was not possible for Sligo County Committee to accept the application for ratification of a new club as the paperwork lodged with County Committee seeking to form a new club was dated the 3rd April 2014 and therefore after the cut-off date set out in Treoir Oifigiúil for the affiliation of a new club. Furthermore, in the absence of a deviation from central council absolving the new club from the necessity to field at adult level, there is no derogation in existence which would facilitate the setting up of this new club.

This Tribunal therefore quashes the decision of Sligo County Committee of 8th April 2014 and the subsequent decision of Connacht Council which upheld the decision of Sligo County Committee.

This Tribunal does seek submissions from the parties in relation to the issue of costs. The submissions from the parties should be limited to the issue of whether or not, based on the facts of this case there is any basis on which the Tribunal should depart from the provisions of the DRA code which provide that the costs follow the event except in exceptional circumstances.

This is the unanimous decision of this tribunal. The tribunal orders that the deposit lodged by the Claimant be refunded to them at the costs of the DRA Hearing be borne by the

Respondent. This remains an interim decision insofar as the issue of the legal costs in this case remains to be decided.

Dated this 13th day of June, 2014

SIGNED: _____
NIALL CUNNINGHAM, CHAIRPERSON

SIGNED: _____
MICHAEL NEEDHAM

SIGNED: _____
PATRICK MCGRATH