

Disputes **R**esolution **A**uthority

An Córas Eadrána

Record No: DRA/16/2005

Between:

Pol Mac Brádaigh

Claimant

-and-

Dónal Ó Murchú (Rúnai Mar Ionadai Ar Son Comhairle Uladh)

Respondent

INTERIM DECISION

Background

On the 11th September 2005 Pol Mac Brádaigh (the Claimant) played for Mullahoran in the Cavan Senior Football Championship semi-final against Gowna. The game ended in a draw. He was not cautioned or sent off. On 13th September 2005, the Games Administration Committee of Coiste Co. Cabhán, comprising eight members, viewed a video tape of the game and arising out of this they wrote to the Claimant on 14th September 2005 inviting him to a meeting on 19th September 2005. The relevant portion of the letter read

“As a result of video evidence on the Senior Football Championship game on Sunday 11th September between Cumann Peil Mullach Odhrain and Cumann Peil Loch Gamhna under Rial 149 T.O. 2003.

Pol Mac Brádaigh Cumann Peil Mullach Odhrain is reported for striking or attempting to strike with the fist and is invited to attend a meeting of Coiste Riarchain na gCluichi An Cabhann under Rial 138 and Rial 140 T.O. 2003 which will be held in the Kilmore Hotel on Monday 19th September 2005.”

The Claimant attended at the meeting and was advised after the meeting that he was suspended for four weeks from the date of that meeting.

On 21st September 2005 the Claimant appealed the decision to Comhairle Uladh. He was advised by the Secretary of Comhairle Uladh (Danny Murphy) that it might not be possible to have the appeal heard before 24th September, being the date of the reply of the match v. Gowna due to the requirement to give notice to Cavan County Committee and to the members of Comhairle Uladh. The Claimant then made an application to the DRA as there would not have been an available appeal within the Rules of the Association. I find no fault with this course of action.

Comhairle Uladh with the co-operation of Coiste Co. Cabhán held a meeting on 23rd September 2005. Comhairle Uladh are to be commended for facilitating the Claimant in this

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regard as are Coiste Co. Cabhán. Comhairle Uladh rejected the appeal as they found no “clear infringement or misapplication of a rule” as required by Rule 151 (i) of the Official Guide.

Following the decision, the chairman of the Claimant’s club advised the President of Comhairle Uladh that they were preparing an application to the DRA. When the claim was prepared they attempted to serve it on the President (Mícheál Greenan). He declined to accept service and indicated that it should be served on the Secretary. The Secretary had left as he had other business to attend to. At the request of Noel O’Reilly (Chairman of Mullahoran Club), on behalf of the Claimant, the President of Comhairle Uladh phoned the Secretary of Comhairle Uladh. The Secretary advised that he was “on the road” delivering tickets for the All Ireland Senior Football Final. No effort appears to have been made by anyone to arrange for the Claimant or his representative and the Secretary of Comhairle Uladh to meet. The President gave the fax number of the Comhairle Uladh office to Mr. O’Reilly and the Claim was sent there. This office is unattended out of office hours. The claim was also served on the Secretary of the DRA and was received by him by fax at 10.45p.m. on Friday 23rd September 2005.

Preliminary Rulings

I have deemed the service of the Claim to be in order. I have also accepted the payment of the €500 deposit today as required by Section 2.3 of the Disputes Resolution Code. I have shortened the notice required for an Interim Hearing as set out in Section 8.2 of the Code. All parties have accepted that I have authority to hear an application for interim relief under Section 8.3 of the Code.

Submissions by the Parties

The Claimant contends that there has been a breach of natural justice in that the entire GAC of Cavan County Committee watched the video tape of the game, preferred the charge against the Claimant, heard the case against him and imposed a penalty. He also contends that this is in breach of the Duffy Report adopted by Árd Comhairle of the GAA on 24th May 2003 and ratified at Congress 2003. He contends that the recommendation contained in the Duffy Report that “where the Games’ Administration Committee of the Central Council proposes to use video evidence to determine whether a charge should be initiated against a member or unit, it shall appoint a Subcommittee from within its membership to view the video and establish whether a prima facie case exists. The Subcommittee shall report its findings to the parent Committee and take no further part in the disciplinary process” is part of “GAA Law”.

He contends that the balance of convenience favours the granting of interim relief setting aside the suspension imposed until the full hearing of the matter. He does not seek the postponement of the game v. Gowna due to be played this afternoon. He points out that if the suspension is ultimately upheld then he may miss a more important game.

He further contends that he took all steps that he could reasonably be expected to do to serve the Secretary of the Respondent. He acknowledges that the Secretary is the person who should be served.

The Respondent contends that he is prejudiced by reason of the fact that he has not had sight of the Claim save that he has seen a copy sent as a matter of courtesy by the Secretary of the DRA.

The Respondent denies any breach of natural justice. It states that the Duffy Report is not part of "GAA Law" and that, in any event, it only applies to the GAC of Central Council.

It further contends that any balance of convenience argument is overridden by the fact that the fundamental issue is so important i.e. that the Plaintiff is simply trying to be allowed to play the game today and, thus, avoid the suspension imposed. It also points out that the DRA is not simply an appeal body.

Decision

1. I am satisfied that there is a prima facie case established. There is an issue to be adjudicated on in relation to how video evidence should be dealt with and, indeed, how matters not referred to in a referee's report should be dealt with.
2. I am not convinced that every effort was made by the Claimant to serve the Respondent and to ensure that the Respondent had a copy of the Claim. I have taken the view that the DRA should be flexible but when a party seeks an Interim Hearing at short notice there is a heavy onus on that party to ensure that all documents are made available to the other party in a timely manner. This did not happen in this case. It is accepted that Noel O'Reilly (Chairman of Claimant's club) had the mobile phone number of Danny Murphy (Secretary of the Respondent). The Claimant also accepts that Mr. Murphy was the appropriate person on whom the claim should have been served by reason of Rule 94 of the Official Guide. He was, therefore, bound to make a greater effort to serve him.
3. There is, therefore, no need to address the balance of convenience argument.

Accordingly, I refuse the application for interim relief.

Dated the 24th day of September 2005

Signed:

Liam Keane
Secretary DRA

Addendum

All parties to the dispute have subsequently advised the DRA that the Claimant's suspension ought properly to have commenced on the date on which he played his last game i.e. 11th September 2005, in accordance with Rule 138 (7) of the Official Guide. I concur with and approve of that interpretation.

Dated the 29th August 2005

Signed:

Liam Keane
Secretary DRA

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