DISPUTES RESOLUTION AUTHORITY
DRA/20/2005

IN THE MATTER OF THE ARBITRATION ACTS

AND IN THE MATTER OF THE DISPUTES RESOLUTIONS CODE OF THE GAELIC ATHLETIC ASSOCIATION

AND IN THE MATTER OF AN ARBITRATION BETWEEN

BETWEEN

Sean Daly - Nominee
O'MATHÙNA AN UAIMH

Claimant

~AND~

Fintan Ginnity – Nominee / Brendan McNamee
COISTE CO. NA MÌ & NAOMH PEADAR DÙN BÒINNE

Respondents

1. By a claim in writing dated the 4th day of October 2005 O'Mathùna An Uaimh sought to refer to arbitration a dispute regarding a decision of Meath County Board dated the 23rd September 2005 to award the result of the Meath Senior Football Championship Semi-Final played between O'Mathùna An Uaimh and Naomh Peadar Dùn Bòinne to Naomh Peadar Dùn Bòinne following adoption of the referees report and following the hearing of an objection by Naomh Peadar Dùn Bòinne and a counter objection by O'Mathùna An Uaimh. The decision of Meath County Board was upheld by Leinster Council on the 28th day of September 2005.
2. The claim was made pursuant to the provisions of the Disputes Resolution Code and was duly served on the Respondents Coiste Co. na Mì and Naomh Peadar Dùn Bòinne.
3. The Deputy Secretary of the DRA provisionally selected Pat McCartan, Mark O'Connell B. L. and Matt Shaw Solicitor to hear the matter and no objections were made to their appointment. The arbitrators have designated Matt Shaw as Chairman.
4. At the hearing on the 6th September 2005 Cormac Corrigan B. L. Counsel for O'Mathùna An Uaimh made a preliminary application to have the hearing of this matter postponed by the DRA on the following grounds:-
    a. It was claimed that there was insufficient time available to the Claimant to properly prepare its case.

b. It was submitted that documentation had been requested in writing from Central Council and that sight of previous Central Council rulings in relation to the use of substitutes was required.
c. It was submitted that a crucial witness Mr. Brendan O'Bric was unavailable to give evidence in relation to a matter of fact that would be in dispute between the parties due to illness.

5. Submissions were heard from Counsel for Meath County Board and Counsel for Naomh Peadar Dùn Bòinne in relation to the application of O'Mathùna An Uaimh for a postponement.
6. Having heard the various submissions in relation to the preliminary application of O'Mathùna An Uaimh the preliminary ruling of the Tribunal is as follows:-
    a. Naomh Peadar Dùn Bòinne, CLG are a full Respondent to these proceedings.
    b. The request of O'Mathùna An Uaimh for interim relief by way of postponement of this hearing to allow further preparation of their case and to allow for Mr. O'Bric's attendance is refused:-
        i. While the parties to this dispute have had a short time to prepare their case the substantive issues involved are in the view of this Tribunal sufficiently clear for this hearing to proceed immediately.
        ii. The Tribunal is independent of the GAA and obliged to proceed with this hearing on the basis of the DRA Code. Time has been sought by the Claimant to examine Central Council rulings or relevant decisions and this application for further time is refused. The Tribunal points out that decisions of the DRA are available to all parties on the DRA website.
        iii. In relation to the unavailability of Mr. Brendan O'Bric for medical reasons to give evidence the Tribunal has decided that the witness Statement of Evidence of Mr. O'Bric submitted to the Tribunal will be admitted as evidence without necessarily agreeing with its contents.
    c. This is the unanimous decision of this Tribunal.

SUBSTANTIVE ISSUE

1. In dealing with the substantive issue in dispute in relation to this case Counsel of O'Mathùna An Uaimh dealt at some length with the contents of the report of the referee, Cormac Reilly, who refereed the County Semi-Final match between O'Mathùna An Uaimh and Naomh Peadar Dùn Bòinne. It was submitted that the referee was not called to give evidence at the County Board Meeting on the 23rd September 2005 as the hearing of such evidence was prohibited by rule. It was submitted that the rule in the Official Guide prohibiting the calling of witness at such a Tribunal clearly implied that

there was a presumption that the referee's report would be accurate in all matter.

2. By way of background to the disputed match the County Semi-Final between the Claimant and Naomh Peadar Dùn Bòinne was a drawn match at full time. Two substitutes had been brought on by the Claimants in ordinary time. In extra time four substitutes were brought on by the Claimants and it was submitted by the Claimants and evidence was called by the Claimants in support of the argument that the third substitute brought on by them was a temporary substitute, i.e. a blood substitute for an injured player, namely a Mr. Dunne.
3. Evidence was called by the Claimant from their physiotherapist, team manager and one of their selectors which indicated that when the player became injured, he was examined by their physiotherapist who on examination discovered blood at the area of the injury. It was submitted that the physiotherapist had signalled to the team manager that the player was injured and subsequently verbally informed the team manger that the player was injured and that a blood substitute was required. The Claimants manager/selectors indicated to Mr. Brendan O'Bric, the team official, designated to deal with the putting on of substitutes that a blood substitute was required and Mr. Brendan O'Bric in his written statement claimed that he wrote out the substitution slip and gave it to Mr. Jimmy Henry who was the fourth official at the match and verbally indicated to Mr. Henry that the third substitute being brought on in extra time by the Claimants was a blood substitute.
4. It was agreed by all of the Claimants witnesses that the referee was not informed by them that a blood substitute was being brought on and none of the witnesses saw the referee make any signal to the side line indicating that a blood substitute was necessary. The referee, Mr. Cormac Reilly, gave evidence of having officiated at the match, recalled the substitute being brought on for Mr. Dunne, gave an account of a conversation that he had with Mr. Dunne but was clear in his evidence that he saw no blood on the injured player and had made no signal that a temporary substitute/blood substitute was required.
5. The referee's report was produced to the Tribunal and there is no reference of the referee's report to a blood substitute having been brought on in extra time by the Claimant.
6. The referee admitted to the Tribunal that it was the fourth official, Mr. Henry, who retained the slips of paper giving details of the substitutions made during the course of the game. Mr. Reilly indicated that he was informed by the referees coordinator and the fourth official after the game that the Claimants had brought on four substitutes in injury time. The evidence called by the Claimants by way of the Statement from Brendan O'Bric to the effect that he had informed the fourth official Jimmy Henry that

the third substitution that they were making in extra time was a blood substitution was not challenged by the Respondents. It was accepted by the referee in evidence that there were gaps in his report: details of the injuries sustained by Mr. Dunne the injured player, was not included in his report. The referee indicated that the substitution details were not inserted by him into the report as he could not read the writing on the substitution slips furnished to him by the fourth official after the match.

7. The Tribunal has the benefit of written submissions from the Claimant and a written response from Coiste Co. na Mì one of the Respondents. Further submissions were heard by the Tribunal from Counsel for the Claimant and Respondents. It was submitted by Counsel for the Claimant that the rules in the Official Guide regarding the number of substitutes permitted are ambiguous. It was submitted that five substitutes are allowed in ordinary time and a further three substitutes in extra time and that this could be interpreted to mean that eight substitutes in total were allowed. It was submitted that the definitions of time were not clear insofar as they applied to the rules regarding substitutes. In relation to the written statement of Mr. O'Bric it was submitted that Mr. O'Bric's statement was supported by the evidence called at the hearing by the Claimants and that Mr. O'Bric's statement of evidence had not been challenged and was binding on the Tribunal. It was submitted that where a fourth official is appointed under the Official Guide rules the official is required to record and report all substitutions to the referee. It was submitted that this rule was not complied with by the official and that in complying with the requirements for substitutions on the day of the match that the Claimants broke no rules. It was submitted that in relation to the playing rules and paragraph 1.5(b) of the playing rules regarding blood injuries that those rules do not specifically state that a blood substitute must be deemed to be such by a referee. It was further submitted that the penalty imposed by rule 109 of the Official Guide for breach of the substitutes rule was draconian and disproportionate to the offence.

Counsel for Coiste Co. na Mì submitted that sports governing bodies including the GAA are to be giving a wide discretion in dealing with their internal matters. It was submitted that the DRA had no business in interfering in decision which were reasonably reached by the GAA. It was submitted that Coiste Co. na Mì and Leinster Council had acted reasonably in regulating and ruling on this issue. It was further submitted by Counsel for Coiste Co. na Mì that the Claimants interpretation of rule 1.5(b) of the playing rules regarding the use of blood substitutes was incorrect. It was submitted that in order for a blood substitution to take place that the referee must have reached a decision that a blood substitute was required and have signalled to the side line for the introduction of a temporary substitute in

order to allow for the removal of the bleeding player from the field and for the treatment of the injury and for the removal of any trace of blood from the player or his clothes or playing equipment.

DECISION

The claimant's case is that one of the four substitutes brought on in extra time in the County Semi-Final was a blood substitute and therefore the decision of Coiste Na Mí on the 23rd of September 2005 to uphold an objection from Naoimh Peadar Dun Boinne should be overturned. It also the claimant's case that the decision of Leinster Council on the 28th of September 2005 should be overturned.

Having carefully considered all of the evidence tendered and having regard to the submissions made by counsel for all the parties we unanimously find as follows;

1. Coiste Na Mí and Leinster Council adopted fair procedures and were correct in their decisions to uphold the objection of Naoimh Peadar Dun Boinne. The absence from the referee's report of any reference to a blood substitution and the clear record of the numbers of substitutes used by the claimants in extra time confirms contravention of Rule 109 of TO 2003. The correct penalty was applied by Coiste Na Mí under Rule 109 TO. The Tribunal also uphold the decision of Leinster Council on the 28th of September 2005.

2. In coming to this decision the tribunal has noted that Coiste Na Mí and Leinster Council observed the rules of natural justice and did not mis-apply their own rules.

Minor omissions from the referee's report did not affect the integrity of his report and Bord Coiste Smachta acted fairly and reasonably in deciding to adopt the referees report. This tribunal also finds that the appropriate rule about the numbers of substitutes permitted in normal time and in extra time is unambiguous and was correctly applied by Coiste Na Mí and Leinster Council.

This is the unanimous decision of the tribunal.

7th October 2005

Matt Shaw (Chairman) Mark O'Connell Patrick McCartan