

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

An C oras Eadr ana

Record No: DRA/22/2005

Between:

Enda Norton

Claimant

-and-

Dick Miller and Niall Handy as nominees for and on behalf of CLG Laoise

Respondent

INTERIM DECISION

The Claimant played for Clonad in an under 21 Hurling Championship match against Borris In Ossory-Kilcotton on 23rd August 2005. The Referee, in his report on the match, stated that he was “struck... on the back with a hurley” after the game. The matter was dealt with by the Laois Games Administration Committee (GAC). The Referee believed that a certain player had struck him but the GAC were satisfied that he was mistaken in his identification. The Clonad Club volunteered the name of the culprit as being the Claimant though they maintained that he did not deliberately strike the Referee. The GAC imposed a suspension of four weeks on 5th September 2005 and notified the Claimant by letter dated 7th September 2005.

The Laois GAC has “plenary powers” which means it can impose suspensions and such suspensions do not have to be approved or ratified by the County Committee. However, the minutes of GAC meetings are placed before the County Committee for information purposes. The minutes of the GAC meeting for 5th September 2005 were presented to the County Committee on 19th September 2005. However, the Chairman of the County Committee who is also a member of the GAC advised the County Committee that the suspension of the Claimant would have to be reconsidered as new information had come to light. The County Committee decided to refer the matter to a sub-committee, to be selected by the Executive, to review the decision of the GAC. Subsequent to the County Committee meeting, the Chairman and Secretary, both of whom are on the GAC, came to the conclusion that the matter could not be dealt with by a sub-committee as the GAC had plenary powers. Therefore, the matter was revisited by the GAC.

Following 2 further meetings of the GAC, at which the new information was relayed orally to the Claimant and his Club, the GAC decided on 17th October 2005 to impose a further period

“Implementing the Disputes Resolution Code of the GAA”

of suspension on the Claimant of 20 weeks. The Claimant was notified of this by letter dated 18th October 2005, received by his Club Secretary on his return from work on the evening of 19th October 2005.

Following consultation that night, the Claimant decided to appeal the decision of the GAC to the Leinster Council and on the following morning his Club Secretary contacted the Secretary of Leinster Council to enquire whether it would be possible to have the appeal heard in advance of Saturday 22nd October 2005. On that date, Clonad are due to play in a Senior Hurling "B" Semi Final which, if they lose, will result in their having to play a relegation match to preserve their senior status, the Club having been senior since 1930. Unfortunately, Leinster Council were unable to facilitate the Claimant. The Secretary of Leinster Council replied to the Secretary of the Clonad Club by email stating "Comhairle Laighean will not hear any appeal before this weekend as (a) our Cathaoirleach is in the USA and (b) it is the policy of Comhairle Laighean not to call special meetings for individual players.". The Claimant then lodged an application with the DRA which was received by the Secretary on 21st October 2005.

The Claimant asserts that he has exhausted all available avenues of appeal in that he cannot have an appeal heard by Leinster Council before the vital game on tomorrow (Saturday). The Respondent does not contest this assertion. Both parties have agreed that the Secretary can hear the application for interim relief pursuant to Section 8.3 of the Disputes Resolution Code. The Secretary has deemed 21st October 2005 as the Commencement Date of the Dispute and has shortened the notice required for this hearing pursuant to Section 8.3 of the Code.

The Claimant contends that:

1. He cannot be "tried twice for the same offence";
2. Any new evidence should have been the subject of an Investigation under Rule 152 of the Official Guide;
3. As the GAC has plenary powers its first decision should be final and binding, subject only to an appeal.

The Respondent argues that the GAC erred in not applying Rule 138 of the Official Guide correctly and were therefore entitled to reopen the case. They also say that they received important new information after the first GAC hearing which they were entitled to consider.

I am satisfied that the Claimant has established a prima facie case.

I am also satisfied that the game tomorrow is a vital game for the Claimant and his Club. The Respondent has offered to postpone this game to allow the Claimant to lodge an appeal to Leinster Council against the Decision received on 19th October 2005. They have undertaken to co-operate in facilitating a full hearing of this application by the DRA if the Leinster Council is unable to hear the appeal in advance of next weekend. Obviously, if Leinster Council hear the appeal, then this dispute is at an end. The Claimant has agreed to lodge an appeal with the Lenister Council but he wants the game to proceed tomorrow and wants to be allowed to continue playing until Leinster Council hear his appeal.

I am satisfied that the balance of convenience lies in accepting the proposal made by the Respondent. Accordingly, I direct that:

"Implementing the Disputes Resolution Code of the GAA"

1. The Claimant forthwith lodge an appeal with Leinster Council against the Decision of Laois GAC of 18th September 2005 and that both parties co-operate in facilitating an early hearing of that appeal.
2. Clonad are not required to play any games involving the Claimant until after Friday 28th October 2005.
3. If there is no hearing of the appeal by Leinster in the interim, then the full hearing of this dispute will take place on Thursday the 27th October 2005, subject to the availability of a Tribunal and a venue.
4. The time for submission of a Reply under Section 3 of the Disputes Resolution Code is reduced and such Reply is to be furnished by 4.30p.m. on Wednesday 26th October 2005.
5. Consideration of costs and of DRA expenses is reserved to the full hearing of the Dispute.

Dated the 21st day of October 2005

Signed:

Liam Keane
Secretary DRA