

THE DISPUTE RESOLUTION AUTHORITY
AN CORAS EADRANA

Record Number: D.R.A.01/2013

In the Matter of The Arbitration Acts 1954–2010
In the matter of An Arbitration

BETWEEN:

NA COILLE TROIDGHE C.L.G

CLAIMANT

-v-

COISTE EISTEACHA LAIGHEAN
AND
COISTE CONDAE CEATHARLACH

RESPONDENTS

Tribunal Members: RICHELLA CARPENTER B.L. , CIAN KELLY B.L., EDDIE KEHER

Tribunal Secretary: Mr. Matt Shaw.

The Claimant was represented by Mr. Niall Byrne, Secretary and Mr. John McDonald, Chairman, of the Fighting Cocks, Football Club, respectively.

The First Named Respondent was represented by Mr. Andrew O’Sullivan, Secretary, and Mr. John Byrne, Chairman, of the Leinster Hearings Committee, respectively.

The Second Named Respondent was represented by Mr. Michael Meeney, Chairman, and Mr. Gerard Lennon, Secretary of Carlow County Board respectively.

BACKGROUND

1. The dispute in question relates to a decision taken by Carlow County Board, the Second named Respondent herein, to change the Football championship structure in Carlow for the year 2013 by replacing the 2011 and 2012 format which had 12 Senior Clubs and promotion to senior ranks for the winners of the Intermediate Championship with a new format that did not guarantee the Claimants senior Championship football. Instead a new senior division of 8 teams was formed with a second tier of 8 teams being drawn from the 4 Intermediate semi finalists of 2012 and the bottom 4 senior teams from 2012. A team in this second tier competition could progress to the Senior Championship quarter final if successful in the second tier competition. The status of the teams in the second tier would only be known after the completion of the second tier competition.
2. On the 31st of January 2012, the Second named Respondents, made a decision to keep the same Championship structure in place for 2012 in Carlow County, as had existed in 2011. The Fighting Cocks, GFC, the Claimants, herein, won the 2012, Intermediate Championship. The Claimants presumed, as a result of this victory, that they would automatically be promoted and play at Senior level in 2013.
3. A meeting was held on the 21st of November 2012 by the Second named Respondents to vote on proposed changes to the format of the S.F.C, I.F.C. and J.F.C. A decision was made by the Second named Respondents by simple majority vote to make the proposed changes to the Football Championship structure within the County.
4. As a result of the meeting held on the 21st of November 2012, and the decision taken by the Second named Respondents herein, the Claimants appealed this decision to the First named Respondents.
5. The Claimants were successful on Appeal. It was held by the First named Respondents that the vote taken and the decision made by the Second named Respondents, on the 21st of November 2012, was invalid as a County Committee cannot vote on a competition twice in one year.
6. On the 10th of January 2013, the Second named Respondent, made a decision by way of vote, to amend the championship structures, namely the format of the S.F.C, and I.F.C., and J.F.C., as had been previously attempted on the 21st of November 2012.
7. The Claimants appealed the decision of the Second named Respondent made on the 10th of January 2013, to the First named Respondent. By letter dated the 18th of January 2013, the First named Respondent, indicated that they were unable to reach a decision in respect of the Claimants' Appeal. By

subsequent letter dated the 23rd of January 2013, the First named Respondent notified the Claimants that their Appeal had been rejected.

8. The Claimants, on foot of the decision of the First named Respondent on the 23rd of January 2013, to reject their Appeal, submitted a request to the Disputes Resolution Authority, for Arbitration.
9. An Arbitration hearing took place between the parties, on the 7th of March 2013, at the Heritage Hotel, Portlaoise.

THE REQUEST FOR ARBITRATION

10. This matter comes before the Tribunal by way of request from the Claimant who disputes the following decisions:
21-11-2012, 10-01-2013, and 17-01-2013 of Carlow County Board.
23-01-2013 of Leinster Hearings Committee.

11. The Claimants Request for Arbitration claimed that:-

- The proposal to change the Championship structure, had been brought before the County Committee three times in the past twelve month period, namely the 31st of January 2012, the 21st of November 2012, and the 10th of January 2013. The Claimants' submitted that an annual period runs from the first date that a decision is taken to the same date, in the subsequent year. The Claimants submit that therefore, there was a breach of Rule 3.32 (e) by the Second named Respondents.
- The Claimants claim that Coiste Banisti, should not put together proposals in respect of championships or the re-grading of clubs. The Claimants submit that this is the role of the Competition Controls Committee. The Claimants submitted that therefore there was a breach of Rule 3.22(i) (ii).
- That Carlow County Board, cannot submit anything in writing to state that they had prior approval from the Leinster Council to regrade the thirteen clubs, as they have done, with their new proposal. The Claimants submitted that there was a breach of Rule 3.32(i).
- That the vote taken on the 31st of January 2012, was never rescinded. Therefore it was submitted that the decision of the 21st of November 2012, and the 10th of January 2013, were invalid, the result being that the decision of the 31st of January 2012, remains in

place, and that the format for 2011, in respect of the championship structure remains in place. The Claimants submitted that there was a breach of Rule 4.3.

- There was a breach of Rule 3.20(e), in that the County Committees' functions, powers and operations, as prescribed therein was not permitted, in that there was no input allowed from the County Committee on the 21st of November 2012, when the matter was first voted on, and the entitlements of the County Committee were breached. It was submitted that there was a breach of Rule 6.20 (4)

THE HEARING

12. The facts of the present case were not disputed by the parties. It was therefore agreed by all parties present that the matter should proceed, by way of submissions, on the alleged breaches, if any, of the Rules, which had taken place, by the parties to this Arbitration.
13. Mr. Byrne, on behalf of the Claimant, made a brief reference to the background facts of this Appeal, and proceeded to make his Submissions to the Tribunal in the following terms;
14. The proposal in respect of the restructuring and re-grading of the Championship was brought before the County Committee three times in a twelve month period. The Claimants' submit that an annual period runs from the first date that a proposal is made to the same date the following year. It was submitted that this was a breach of Rule 3.20(e).
15. The Claimants claim that Coiste Banisti, should not put together proposals in respect of championships, or the re-grading of clubs. The Claimants submit that it is the Competition Controls Committee should have jurisdiction in respect of this matter. It was submitted that this was a breach of Rule 3.22 (i) and (ii).
16. That Carlow County Board, were not in a position to submit anything in writing to establish that they had prior approval from Leinster Council to re-grade the Clubs. It was submitted that this was a breach of Rule 3.32 (j).
17. That the decision taken on the 31st of January 2012 was never rescinded, which decision was to leave the 2012 championship structure the same as the 2011 structure. Therefore it was submitted that the decision of the 21st of November 2012, and the 10th of January 2013 were invalid and that therefore the decision of the 31st of January 2012 remains in place, and the 2011 championship format still stands. It was submitted that this was a breach of Rule 4.3.
18. The Championship has been altered three times in the past twelve months which is not permitted and in breach of Rule.

19. As a result of the aforementioned the Claimants would be playing in the Intermediate Championship or Tier two, in 2013, and not in the Senior Championship, which had multiple implications for the Claimants.
20. There was a breach of Rule 3.20(e), in that the County Committee's functions, powers and operations, as prescribed therein were not permitted, in that there was no input allowed from the County Committee on the 21st of November 2012, when the matter was first voted on, and the entitlements of the County Committee were breached, pursuant to Rule 6.20 (4).

21. Respondents' submissions

- Mr. Meeney, on behalf of the Second named Respondent submitted that the alterations to the Championship structure were not raised until the middle of October 2012.
- Mr. Meeney stated that although the Claimants had stated that the proposals had been raised three times in one year, when, the proposal was taken before the County Committee in November 2012, all of the 2012 Competitions had been completed.
- Mr. Meeney stated that it was imperative that the Second named Respondents were able to reprocess matters, in January of each year, as, in this case January 2013.
- Mr. Meeney was also keen to point out that no club would be relegated under the new structure without the prior consent of Leinster Council and that as yet no relegation had taken place.
- Mr. Lennon, in addition to Mr. Meeney made additional submissions on behalf of the Second named Respondent. A central focus of these submissions, as requested by the Arbitration panel, addressed Rule 3.32 (e) and in particular the following; *"Alterations may be considered only on an annual basis."*
- Mr. Lennon submitted that there was no breach of Rule 3.32 (e), by the Second named Respondent, in that the First Vote in respect of the alterations the subject matter of this Arbitration, was taken in November 2012, and the subsequent vote in or about January 2013, being a subsequent year. Mr. Lennon submitted that in his view the term "annual" referred to a calendar year, as opposed to a twelve month period.

- Mr. Lennon submitted that there had been no breach, by the Second named Respondents of Rule 3.22 as alleged by the Claimants. He further submitted that there had been no breach of Rule 3.32 by the Second named Respondents as he submitted that teams had not, in fact, been regraded.
- Mr. Andrew O’Sullivan, on behalf of the First named Respondent, submitted that there had been no breach of the Second named Respondents of Rule 3.20(e). It was submitted by him, that the First named Respondents had ruled in favour of the Claimants, in respect of the decision of the Second named Respondents made on the 21st of November 2012, which he submitted was made in breach of the aforementioned Rule. However, Mr. O’Sullivan submitted that the matter had been reprocessed by the Second named Respondents in January 2013, and therefore the decision taken by them on the 10th of January 2013, was valid.
- Mr. O’Sullivan further submitted that no regrading had occurred at present, and therefore no breach of Rule 3.32, had occurred. He further submitted that the purpose of Rule 4.3 was that it would apply to circumstances where a decision is made in respect of a competition in one particular year (being a calendar year), and a change is required in respect of same in that same year.
- All parties, present, were afforded an opportunity to respond to the submissions made.

DECISION OF THE DISPUTES RESOLUTION AUTHORITY

By way of unanimous decision, this Tribunal found in favour of the Claimants.

It was held that there had been a breach of Rule 4.3, which states:-

“Except where otherwise provided in these Rules, all decisions at General Meeting and Committee Meetings shall be taken by a simple majority of those present entitled to vote and voting, and in the event of a tie, the presiding Chairperson shall have a casting vote in addition to his vote as a member, irrespective of whether or not he had originally voted on the issue. Any decision taken at a duly convened meeting of any Committee or Council of the Association, shall not be rescinded at a subsequent meeting, unless due notice of intention to propose rescindment has been previously conveyed to each member, and the consent of the two thirds of those present entitled to vote and voting is obtained.”

It was held that the decision of the Second named Respondents made on the 31st of January 2012, had not been properly rescinded, as required by Rule 4.3. Therefore the decision made on the 10th of January 2013, by the Second named Respondents, and upheld by the First named Respondents on Appeal, was invalid, and thus the decision of the 31st of January 2012 in respect of the Football Championship structures in County Carlow remains in place.

As the Claimants were successful in this aspect of their Appeal, the DRA invited submissions from the Claimants in respect of the Costs of the Arbitration. The Claimants indicated that they would not be seeking any costs in respect of this matter. This Tribunal directs that the costs of the DRA be borne by the Respondents equally and that the Claimants be refunded their deposit.

Signed:

Ms. Richella Carpenter B.L. (Chairperson),

Signed:

Mr. Cian Kelly B.L.

Signed:

Mr. Eddie Keher