

**DISPUTES RESOLUTION AUTHORITY  
Record No. DRA 11/2011**

**IN THE MATTER OF THE ARBITRATION ACT 2010**

**Between**

**CUMANN CLG BAILE BUADAIN NAOMH EANNA**

**Claimants**

**And**

**CLG COISTE ATHA CLIATH**

**&**

**COISTE BAINISTI ATHA CLIATH**

**Respondents**

Decision of the Disputes Resolution Authority dated the 9<sup>th</sup> Day of June 2011

We, the undersigned, have found as follows:

**Background**

1. The Claimants are Ballyboden St Endas GAA Club (hereafter "Ballyboden" or "the club"). Ballyboden are affiliated to the Dublin County Board, the first Respondent. The club were fixed by the CCC of the Dublin County Board to play a SFC match against CLG St Mary's, Saggart, on Friday 10<sup>th</sup> June 2011. The match is a knock-out round of the Dublin senior football championship and the loser of the match faced elimination from the championship. The match had previously been postponed by the CCC of the Dublin County Board from its original date of 5<sup>th</sup> May 2011.
2. A number (nine) of Ballyboden players are members of the Dublin Senior Hurling Team/Panel. Three of those players are also members of the

Ballyboden SFC team/panel. Each of the three players in question would expect, and would be expected to play with the senior football team in the match with St Mary's.

3. Rule 6.23(a) of the Official Guide reads as follows:

*“The period of time during which Senior Inter-County Players shall not be expected to fulfil Inter-Club Championship Fixtures prior to Inter-County Championship Games, in the same code, shall be.... [in respect of all Senior Inter-County Championship Games bar All Ireland Finals] maximum 13 days”*

4. What is known as the “thirteen day rule” is commonly invoked by County Boards to restrict the involvement of senior inter-county players in club championship matches.
5. Ballyboden's evidence, and this evidence was not disputed, was that the club tried to pre-empt problems that were likely to arise by reason of the fact that it had a number of Senior Inter-Club football players who were also players on the Dublin Senior Inter-County Hurling Panel. To that end the club raised the matter at County Board meetings and also raised the matter directly with the Dublin County Board Secretary, John Costello, on 13<sup>th</sup> March 2011.
6. By e-mail dated 1<sup>st</sup> June 2011 the Secretary of the Dublin County Board, John Costello, advised Ballyboden that the “thirteen day” rule was being invoked in respect of the players on the Dublin Senior Inter-County Hurling Panel. Dublin were scheduled to play Galway in the Leinster SHC on 18<sup>th</sup> June.
7. It was accepted in evidence that the decision to invoke the “thirteen day” rule was made by the Management Committee of the Dublin County Board, the second Respondent, in consultation with the Dublin Senior Hurling Manager, Anthony Daly.
8. Ballyboden argue that the decision to invoke the “thirteen day rule” was only ratified or confirmed when the club's chairman, Terry O'Neill, spoke to the Chairman of the CCC of the Dublin County Board, Andy Kettle, on the 6<sup>th</sup> June 2011. Ballyboden argue that the 6<sup>th</sup> June 2011 is the effective date of the decision which it seeks to have reviewed.
9. Ballyboden have appealed the decision of the Management Committee of the Dublin County Board to invoke the “thirteen day” rule to the Leinster Council. That appeal was lodged on 9<sup>th</sup> June 2011. A decision in respect of the merits and validity of that appeal is pending.

### **CLAIMANT'S CASE**

10. The nature and essence of Ballyboden's substantive application to the DRA is that the “thirteen day” rule has relevance only to Senior Inter-County players playing Senior Inter-Club championship matches in the same code. Ballyboden argue specifically that Rule 6.23 does not serve to restrict senior

inter-county hurlers from playing inter-club football championship matches within the relevant thirteen period.

11. Ballyboden also seek interlocutory relief. Specifically the club seeks the postponement of the Dublin SFC match between it and CLG St Mary's. Ballyboden argue that the prejudice caused to it by having to play their knock-out championship match with St Mary's is extreme, most particularly in circumstances where it had tried to pre-empt this problem and in circumstances where the problems that led to the postponement of the fixture as originally scheduled were not of its making.

## **RESPONDENTS' CASE**

12. The Respondents argue that the "decision" to invoke the thirteen day rule was made on the 1<sup>st</sup> June 2011. Pursuant to Rule 7.11(d) "*An appeal....shall be received within three days of the date and time of notification of the decision*". The Respondents argue that the Applicant's Appeal to the Leinster Council is out of time and by reason of same argues that Ballyboden, having failed to exhaust all internal appeal mechanisms before making application to the DRA, is precluded from maintaining the within application.
13. Without prejudice to the position detailed above, the Respondents also argue that the "decision" to invoke the "thirteen day" rule is in any event not a decision that is capable of being reviewed or appealed. The Respondents argue this on two bases. Firstly that Rule 6.23 goes no further than to state that "*Senior Inter-County Players shall not be expected to fulfil Inter-Club Championship Fixtures*". The Respondents argue that the rule includes no prohibition on the affected players playing for Ballyboden against CLG St Marys. Secondly the Respondents highlight that there is no penalty proposed in the event of a breach of Rule 6.23.
14. As regards the substance and meaning of Rule 6.23, the Respondents argue that the "thirteen day" rule is of general application and that its meaning and intent is that Senior Inter-County Players are not expected to play Inter-Club Championship fixtures in the thirteen days before a Senior Inter-County Championship match, regardless of the code.
15. As regards the application for interlocutory relief, specifically the postponement of the Applicant's match with CLG St Mary's, the Respondents highlight the considerable difficulty there has been and will be in organising the Dublin Senior Football Championship and that a postponement of this fixture will serve to cause a log jam which may well become worse if the Dublin Senior Football and Hurling teams continue to progress in their respective inter-county championships.

## **FINDINGS**

16. The Tribunal's function in the context of this interlocutory application is to determine whether the Applicant has made out an arguable case, one which warrants a full hearing of the case. If we find that the Applicant has made out

an arguable case, the Tribunal must also determine whether the balance of convenience lies in postponing the scheduled fixture between Ballyboden and St Mary's. We find as follows:

- a) That the phraseology used in Rule 6.23 does raise the possibility that, with regard to the specifics of this case, the "thirteen day" rule is intended to restrict players from playing inter-club hurling championship matches within the thirteen day period in advance of Dublin's participation in senior inter-county hurling championship matches but is not intended to restrict those players from playing in inter-club football championship matches during that same thirteen day period. The Tribunal is of the view that the Applicants have identified that there is a clear issue to be tried.
- b) In relation to the question of whether the decision which the Applicant seeks to review is in fact reviewable, Rule 6.23 clearly does not impose a prohibition on players playing for their clubs during the thirteen day period, nor does it seek to impose a penalty upon players who play for their clubs during the said thirteen day period. The absence of a prohibition and a penalty are both matters which suggest Rule 6.23 "decisions" were not intended to be "decisions" which were capable of review or appeal. However, the decision of the Management Committee of the Dublin County Board is arguably a "de facto" prohibition on the Applicant's players playing for their club in the senior football championship. It also serves to put the players in questions in an impossible position. Whether or not that "de facto" prohibition amounts to a decision that is capable of review or appeal is a matter which the Tribunal believes requires fuller ventilation.
- c) The Tribunal has significant concerns about the validity of the Applicant's appeal to the Leinster Council and an issue does arise as to whether or not that appeal was made within the timeframe allowed. It would, however, be improper for the Tribunal to impinge upon or to interfere with the Leinster Council's exercise of its jurisdiction and powers. At the time this decision is made it is clear that there is a live appeal before the Leinster Council and that body must be free to reach its own conclusions. In the event, however, that the Leinster Council deems the Applicant's appeal to have been made out of time, it would appear to follow from the decision of the Tribunal in the "Warwickshire Case" (DRA 30/2005;31/2005;32/2005;) that the Applicant is precluded from the reference of their dispute to this Tribunal.
- d) In all the circumstances the Tribunal finds that the Applicant has made out an arguable case and now proceeds to consider the application to postpone the Applicant's match versus CLG St Mary's. Whilst the Tribunal is extremely conscious of the difficulties placed upon County Boards in the organisation and scheduling of matches and specifically what difficulties the postponement of this match will cause, we find that the greater prejudice in this case would be caused to the Applicant if the match against St Mary's proceeded. The accepted evidence is that Ballyboden would be obliged to prepare for and play this knock-out match without

three key and established members of their senior football team. That the club tried to pre-empt this situation arising and that the situation has arisen through no fault of the Applicant is enough to satisfy the Tribunal that the balance of convenience lies in directing a postponement of the match.

### **DETERMINATION**

17. The Tribunal directs:

- a) That the Dublin Senior Football Championship match between CLG Ballyboden St Endas v St Mary's Saggart scheduled for Friday 10<sup>th</sup> June 2011 be postponed pending a determination of the within matter;
- b) That the issues of costs be reserved;
- c) Liberty to apply;

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Aaron Shearer

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Damien Maguire

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Jarlath Burns