

DISPUTES RESOLUTION AUTHORITY

AN CORAS EADRANA

IN THE MATTER OF THE ARBITRATION ACTS 1954 AND 1980

DRA 15/2009

Cumann Grattan Og, CLG Claimants

v Coiste Chontae Longfoirt, Coiste Smachta na gComortasai Longfoirt C.LG & Coiste Eisteachta Laighean C.L G Respondents

1. Gearoid De Burca a juvenile player with Grattan OG CLG in Longford signed an application for transfer dated 23rd January 2009 seeking to transfer to Cumann Baile Mor CLG. The transfer request came before Longford County Board on the 26th January 2009 and the application for transfer form has a tick mark thereon with a date beside it 26th January 2009 which the County Board submit indicates that the application for transfer “went through”. The application for transfer also has a note on it as follows “proposed by Derek Nolan to not transfer”. The matter progressed and was raised at a number of subsequent County Board meetings by Cumann Grattan Og. Subsequent minutes of Longford County Board state that the transfer request was granted at the March meeting of Longford County Board. Various submissions were made by the Claimant and the Respondents to the tribunal regarding the minutes of subsequent County Board meetings in April, May and June of 2009. What is clear is that the question as to whether or no Gearoid De Burca was properly transferred was a live issue as far as the Grattan Og Club were concerned up to June 2009.
2. Gearoid De Burca played for Baile Mor in an underage football game on the 23rd June 2009 and arising from that game the Claimant Grattan Og by letter dated 25th June 2009 sought an investigation under rule 148(a) of Teoir Oifigiuil.
3. The Claimants submit that the County Board failed to carry out the required investigation into the constitution of the Baile Mor football team which played in the relevant match on the 26th June 2009. The Claimants have submitted that their request for arbitration relates to issues surrounding the validity of the

Baile Mor team and in particular the entitlement of Gearoid De Burca to play for Baile Mor on the 23rd June 2009.

4. Notwithstanding the fact that the Claimant maintains that the appeal brought by the Claimant to Leinster Council and the subsequent request for arbitration to this tribunal relates to the enquiry sought under Rule 148(a) of Teor Oifigiuil into the legality of the Baile Mor team on the 26th June 2009 a net issue for this tribunal is whether or not Gearoid De Burca was properly transferred from Cumann Grattan Og CLG to Baile Mor CLG.
5. The Claimant in their request for arbitration alleges that Rule 38(d) of Teoir Oifigiuil 2008 was breached and also claims that Longford County Board has breached its own bye-laws 38(d) in granting the transfer. In the course of submissions to the tribunal it was submitted and agreed by both parties that the relevant bye-laws are the 2007 bye-laws which at paragraph (g) state “no player shall be granted a transfer unless it is shown that the player has moved permanent residence to the catchment area....”. The Claimant submits that the person seeking a transfer must show that they have moved permanent residence in order to avail of this permitted exception to the parish rule relating to underage players in Longford.
6. During the course of oral evidence, it became apparent, that John Duffy, who was the acting secretary of the County Board Meeting in March 2009, suggested, that the question of the transfer only became an issue after the County Board Meeting in February, and he, John Duffy, checked it out. He told Sean Quinn to look into the question of the transfer. Jerry Hynes, who was a member of the Baile Mor Club gave evidence, to the effect that he understood the transfer had been granted on the 26th January 2009, and he gave evidence of a letter being attached to the application, and he went on to say that there was no seconder for the motion of Derek Nolan opposing the granting of the transfer. Paul Burke gave evidence that his son wanted to transfer to Baile Mor, and he said that there was a letter with the transfer request form regarding his sons place of residence effectively showing how the requirements of the bye law were met. It should be noted, that letter is undated, and it was signed by Paul Burke alone. That letter states that the person the subject matter of the transfer application resided most of the time at “my home” that is the home of Paul Burke, in Rathbracken Granard, and that he desired to make a transfer from Grattan Og Club to Baile Moor Shamrocks as it would suit better for attending training.
7. At some point, and when exactly it is not clear, a second note setting out Gearoid De Burca’s desire to play football with Baile Mor and signed by both parents was forwarded to Leinster Council.

8. It was accepted by all parties, that the authority to grant transfer is vested in the County Board, and their decision was final and could not be the subject matter of an appeal.
9. The application herein was not by way of an appeal, but it was a challenge to the exercise by the Board of its powers in granting a transfer in circumstances where the transfer could only be granted by the County Board if it was satisfied that there was a change of permanent residence.
10. Regrettably, there was no definition of permanent residence, but it was persuasively urged that, to move one club to another, there must be shown that a player has moved, that he lived within one catchment area and moved into another, thereby showing a clear change of residence. There was no evidence before the DRA to the effect that there had been a change of permanent residence.
11. It is beyond dispute that there was a transfer application. It appears well settled now, that at some stage, the transfer was granted. The issues that are now called to be determined are whether or not the County Board had the power to grant the transfer. We are satisfied that the board did not have the power to grant the transfer, as there was no evidence satisfying the bye law requirement of a change of residence.
12. In the circumstances, we find, as a fact, that there was no change of permanent residence, and as such the County Board acted ultravires, in granting the transfer. Therefore the player Gearoid de Burca was not entitled to play for Baile Mor on the 23rd June 2009. This is the unanimous decision of this Tribunal.

We direct that the costs and expenses of the DRA be borne by the Respondent Longford County Board.

Signed

Alan Gannon Chairman

Patrick Purcell B.L.

Brendan Ward

