

Disputes Resolution Authority

An Córas Eadrána

DRA 16/2010

BETWEEN

Oisín O Conghaile suing by his father and next friend Cathal O’Conghaile

Claimant

V

Cumann Droichead an Chlairín

Respondent

Preliminary issue

At the outset of this DRA hearing, the Respondent made a preliminary application dealing with the jurisdiction of the DRA to hear this case. The Respondent submitted that Galway County Board still had seized of this case as there was still correspondence ongoing between the Respondent Club and the County Board which had not been fully dealt with. Mr Colman Sherry solicitor submitted that his client Clarinbridge GAA Club were still waiting to hear from Galway County Committee on the matter.

The Claimant submitted that any involvement of Galway County Committee had been terminated by him in this matter.

The Tribunal considered the matter and felt that Galway County Board seemed to have made a decision on the matter under dispute, namely the granting of permission to the Claimant’s son to play football with Clarinbridge by letter dated 26th May 2010. It was not clear to the Tribunal on what basis the County Committee were still dealing with the matter but in circumstances where the Tribunal felt the involvement of Galway County Committee was by way of mediation or dispute resolution between the parties and in circumstances where the Claimant had indicated that he had terminated his involvement in this process, this Tribunal unanimously decided to refuse the application by the Respondent and this Tribunal accepted jurisdiction in the matter.

Background

1. The Claimant, suing by his father, Cathal Connolly brought a Request for Arbitration to the DRA by claim form dated 31st August 2010. The Claimant was born on 5th January 1999 and is a registered youth member of Castlegar GAA Club, an exclusive hurling club. The Claimant submitted in the Request for Arbitration form that his son had been a member of Castlegar Hurling Club since 2007 and that Castlegar was both his native parish and his home club as defined in the GAA Official Guide 2009 Rule 6.3.
2. The Claimant, in the Request form submitted outlined that Oisín and his family had relocated on a temporary basis to Stradbally East in the parish of Clarinbridge in 2004. The Request form further set out that in May 2008 the Connolly family moved

“Implementing the Disputes Resolution Code of the GAA”

to a new permanent residence in the townland of Roveagh which is also in the parish of Clarinbridge.

3. The dispute between the parties arises from the Claimant's assertion that the Respondent has refused his son permission to play football with Clarinbridge and to admit him as a member for football purposes. The Claimant submitted that an application had been made on behalf of Oisín for membership in 2009 and that the Respondent's Executive Committee had returned the application form with the membership fee stating that *"It is with regret that we cannot accept Oisín's membership for 2009 as the closing date for accepting membership is July"*. In late 2009 Cathal Connolly, the Claimant's father wrote to Michael Monaghan of Galway GAA County Board indicating that Oisín had already received permission from the County Board in response to his application to play football with Clarinbridge but that Clarinbridge Executive Committee had been uncooperative on the issue and had been frustrating dealing with the matter and had used every opportunity to delay and prolong the matter. Mr Connolly suggested in his letter that the real reason his son Oisín was not allowed to play football with Clarinbridge was because the Executive Committee believed he should be playing both hurling and football with Clarinbridge and don't want him to play football if he won't play hurling with the club. This letter sought the advice of the County Board on the matter.
4. The correspondence accompanying the Request for Arbitration shows that the dispute between the parties escalated in so far as Cathal Connolly, on behalf of his son Oisín wrote directly to the Secretary of the Respondent stating that *"as a result of the Clarinbridge Club's refusal to allow my child permission to play gaelic football my child is suffering from neglect and emotional abuse"*. The letter further stated *"this abuse is caused by the actions of the Clarinbridge GAA Club"*. The Claimant's father further stated in his letter to the Secretary of the Respondent dated 12 April 2010 that *"My child is a registered member of the Gaelic Athletic Association and I must ensure that his dignity and rights are respected and that his welfare is safeguarded against abuse by any of its units. This basic requirement must be upheld by the Gaelic Athletic Association in accordance with its rules and guidelines and by the relevant Authorities in accordance with Child Protection policy"*.
5. A letter in similar terms was sent by the Claimant on behalf of his son to the Secretary of Galway GAA County Board dated 18th April 2010. A letter from the Respondent to the Claimant dated 20th April 2010 stated *"The members of the Executive take a very serious view of your allegations of abuse and we call upon you now, to withdraw these allegations immediately. This is a clear attempt in your letter to associate the decision or decisions of the Executive with child abuse and for that reason alone your threat to report this alleged abuse of your child to the appropriate local and national authorities should be proceeded with without delay so that the members of this club can be exonerated. The belief of you and your "Counsel" which leads you to make the most serious, unfounded and untrue allegations against Clarinbridge GAA Club is wrong and without foundation. The Club is well aware of its responsibilities and what it should and should not do and it is felt that the thrust and tone of your letter were ill advised."*

6. Guidance was sought by Galway County Board from Croke Park as a result of which a letter was sent to the Secretary of the Respondent by Galway County Board dated 26th May 2010 stating as follows *“I refer to the refusal of your club to grant Oisín Connolly permission to play football with your club. The Coiste Chontae in pursuance of a query from his parents sought the advice of the Rules Advisory Committee at Pairc an Crocaigh regarding same. The Committee responded through the Árd Stiúrthóir to say that the Club were wrong to refuse membership to the child. They advised that if this case was taken down the legal route it would be hard to sustain and the club would incur serious financial costs, so the Coiste Chontae are granting the permission with a recommendation to your club to accept his membership for football purposes”*.
7. Following this letter from the County Board dated 26th May 2010 the Claimant wrote to the Respondent by letter dated 31st May 2010 furnishing a youth membership application form for his child together with a membership subscription of €40. By letter dated 1st June 2010 the Respondent replied to the Claimant giving them a copy of the letter being sent to the County Committee and also stating as follows *“You must understand as Oisín is not a member of Clarinbridge GAA Club Oisín cannot be allowed to participate as indicated by you. Please find enclosed your cheque for €40.00”*. A letter of the same date to the County Committee requested copies of all correspondence between the County Committee and Croke Park and also stated as follows *“The Club wishes to re-emphasise again that the allegations against the Executive of Clarinbridge GAA Club and its members must be withdrawn in writing and an undertaking given that they will not be repeated”*.
8. In direct evidence Cathal Connolly, father of the Claimant, stated that his son had played at U8 level for Clarinbridge and played between 40 and 50 go~games. He said his family were living in Castlegar when Oisín was born, had moved to Kildare after that and then moved back to Castlegar in 2004 and his son had joined Castlegar GAA Club in 2006. He said his son had played games at U11, U12 and U13 for Castlegar this year. Under cross examination he confirmed that Oisín was born in Dublin on 5th January 1999 and he was living in Castlegar at the time while the child’s mother was living in Kildare. He insisted that Castlegar was the Club of his son’s birth. It was put to him that the definition of “native parish” in Teoir Oifigiúil is the parish *“where the parents were living at the time of his birth”* and this meant both parents. The claimant’s father said that he was living in Stradbally east on a temporary basis after 2004 and he accepted that Stradbally East was in Clarinbridge parish. He also accepted that his son was aged 5 when they first moved to Clarinbridge parish in 2004 and had been living in Clarinbridge since. He said he didn’t know when his son first applied for membership of Castlegar Club and under cross examination he said he wasn’t sure what address was on the GAA membership register with Castlegar. It was put to him that his own address was down on the Castlegar register of members as living in Castlegar, even though he has been living in Clarinbridge since 2004 and that his son’s address was similarly shown as Castlegar. Cathal said in reply that he didn’t know what Oisín’s address was on the Castlegar membership register. Under cross examination he confirmed that his son first played in an official grade, that is U12, for Castlegar in 2009 when he was 10 year old and he insisted his son was eligible to play for Castlegar and was a member of the Club.

9. The Claimant's father did not deal in his direct evidence with any of the correspondence which had been sent by him to the Respondent and the County Board alleging emotional abuse against his son and this Tribunal did not allow the Respondent to cross examine the witness Mr Connolly on any matters other than those raised by him in his direct evidence.
10. In his submissions, the Respondent went through the Form of Response filed with the DRA Secretary and called as his first witness, Mr Damien McGrath the secretary of Clarinbridge Club. Mr McGrath in his direct evidence said that the first he heard of an application by Oisín Connolly to play football with Clarinbridge was in August 2009 when he was contacted by the Juvenile Officer of Clarinbridge GAA Club. He said on 3rd September 2009 he obtained a copy of the application for permission to play and said that the form had been signed by the Secretary of Castlegar whereas it should have been signed by him as secretary of Clarinbridge GAA Club. He said the form was invalid in a number of respects and it referred to a parish of Kilcolgan in circumstances where there is no such parish and was signed in English where it should in fact, according to the witness, have been signed in Irish. He further stated that the signature on the form purporting to be the signature of Micheál O'Muineacháin, the Secretary of the County Board was not in fact his signature. He said the procedure was not adhered to in any proper sense and Galway County Board could not have properly processed the application and in his view had not properly processed the application. He said he wrote to Cathal Connolly giving his reasons for the refusal of Oisín Connolly's application to join the Club and to play football with them and read into the record that correspondence which gave as the principal reason for the refusal the fact that the application was received out of time.
11. Mr McGrath denied that he was in any way uncooperative with Cathal Connolly and pointed out that Mr Connolly was not and never had been a member of Clarinbridge GAA Club and he said he denied all the allegations made in the correspondence sent by Mr Connolly to Clarinbridge GAA Club and to the County Board. He said that in 2010 an application dated 4th May 2010 was received for membership and permission to play which also had a number of defects. It was not signed in Irish, was using the wrong membership number and was dated 4th March. He said he had been informed by the County Executive that the closing date or cut off for such applications was 1st March 2010 and he said that as a result the Club Executive met and decided not to present the application to the County Board as it was out of time and it was club policy not to entertain late applications. The decision was notified to Cathal Connolly on 23rd March 2010 but the witness accepted that Cathal Connolly was not told in such correspondence that the reason for the return of the application was that it was out of time. Following a letter from Galway County Board to his club dated 26th May 2010 he received a further application form from the Claimant and his direct evidence was that this claim form was not signed by Oisín Connolly the applicant and was not processed on that basis.
12. Mr McGrath, the Secretary of the Respondent read into the record the detailed booklet of correspondence which had been exchanged between his club and the claimant and between his club and the County Board regarding the matter and he also read into the record, the minutes of the meetings of the Executive Committee of

the Respondent where this matter was dealt with. In his direct evidence Mr McGrath stated that in his view this matter was still before Galway County Committee as they had appointed a Subcommittee to investigate the dispute and he had met with that Subcommittee and as far as he knew, Mr Connolly had also met with the Subcommittee and the Subcommittee was still expected to finalise the matter. It was put to him in cross-examination that the Claimant had notified the County Board that he was no longer pursuing the matter to the County Board and he was proceeding to the DRA.

13. Further evidence was given by Mr Michael McMahon, Club Member, whose evidence amount in effect to a submission as to the correct interpretation of the Teoir Oifigiúil in so far as it relates to this issue. In particular Mr McMahon made submissions to the Tribunal regarding the effect of byelaws 12 and 13 of the Galway County Byelaws which deal with the existence of a parish rule for clubs outside Galway City and the absence of a parish rule within Galway City and the requirement for juvenile members to stay with the Galway City clubs until they reach the age of 18. Mr McMahon submitted that Oisín Connolly could not legally be a member of Castlegar Club as he was resident in Clarinbridge parish at the time that he reached the age when he could first legally participate in a club competition as defined in Teoir Oifigiúil. He said that the child was 10 when he would first have been entitled to play legally for any club and that based on the parish rule in Galway the only club he could legally play for was Clarinbridge. He said the County Byelaws do allow the County Committee to grant permission for exceptions to this rule but he was not aware of any such permission being granted in this case.
14. Mr Michael Carr, the Chairman of Clarinbridge GAA Club gave evidence to deal with an issue which arose regarding the minutes of the Clarinbridge Club Executive Meeting one of which referred to a statement by him that the decision to refuse permission for Oisín Connolly to play football with Clarinbridge Club was on the basis that if he wouldn't play hurling for them he wouldn't be entitled to play football for them. He gave direct evidence that this was a statement made by him and him alone and did not reflect the decision of the Executive Committee in dealing with the matter. He was not cross examined on this point.
15. During the course of the cross examination of the Secretary of the Respondent, the Respondent outlined what he said were the three main obstacles to the resolution of the matter which were in his view the following:~
 - a. The allegation of abuse had to be withdrawn
 - b. The status of Oisín Connolly to play with Castlegar had to be clarified and
 - c. The issue of the signature of the County Secretary on the form dated 26th August 2009 purporting to grant permission to Oisín Connolly to play for Clarinbridge had to be resolved.
16. In further submissions Mr Alastair Purdy, solicitor for the Claimant pointed out by that letter dated 26th May 2010, Galway County Board had given permission to Oisín Connolly to play for Clarinbridge and what was happening now was the Respondent was simply refusing to implement that decision and disobeying a decision directed by a higher body. He said that his client's son clearly met the criteria for playing with Clarinbridge in accordance with definition of his "native parish" in Teoir Oifigiúil 6.3.

- 17 The Respondent in his final submission pointed out that the only body under the Teoir Oifigiúil who can grant membership is the club and in this case his club had acted properly and appropriately at all times in dealing with the matter. He said the fundamental issue here was the status of Oisín Connolly and the fact that he was playing illegally for Castlegar and until his status at Castlegar was resolved his client were quite correct to deal with the matter as they had done. Mr Colman Sherry, solicitor for the Respondent further dwelt on the issue of the allegation of abuse being made and said this had caused huge difficulty for the Executive of the Respondent Club and had to be withdrawn. He pointed out that he had presented both the Chairman and the Secretary of the Respondent for detailed cross-examination on all matters to do with their Response whereas Mr Connolly had chosen to give evidence on very narrow issues and had not submitted himself for further cross-examination on the substance of his claim or on the correspondence he had issued prior to the matter being referred to the DRA. Mr Colman Sherry pointed out that previous DRA decisions had placed emphasis on the requirement to observe all of the rules of the Association and the fact that this case involved a juvenile player should not deter the Tribunal from applying the rules of the Association strictly and correctly.

Decision and Reasons

- (1) The Respondent is correct in its submission that a request for permission to play football with their club from a member of an exclusive hurling club is only a valid request if (a) the application is in accordance with the Rules of the Association as set out in Teoir Oifigiúil 2009; (b) is submitted within the time limits permitted by the County Byelaws and (c) the applicant is actually a member of and is legally playing for an exclusive hurling club at the time of the application.
- (2) There is a parish rule in Galway for all clubs outside Galway city and players are required to play for the parish in which they reside. The definition of home club as set out in Teoir Oifigiúil is clear and a player's home club is the club for which they legally participate in an U12 competition at an age not less than 2 years lower than the prescribed U12 grade. Therefore in order to consider if it is possible for Oisín Connolly to legally play for Castlegar it is required to look at his residence when he was 10 years of age. The evidence from his father to the Tribunal is that he was resident in the parish of Clarinbridge since 2004. Therefore although the request for arbitration does not request the Tribunal to deal with the legality or otherwise of Oisín Connolly playing for Castlegar, this tribunal accepts the case that Oisín Connolly was not entitled under Association rules set out in Teoir Oifigiúil to play for Castlegar. No evidence was offered to the Tribunal that Galway County Board ever granted Oisín permission or an exemption to play for Castlegar.
- (3) The Respondent Club in their direct evidence outlined that they had received a number of incomplete applications from the Claimant for both permission to play football for Clarinbridge and for membership to Clarinbridge. The Claimant did not put forward any evidence to contradict this. While this Tribunal feels that the

communication between the Respondent's Secretary and the Claimant could have been more forthright in explaining the Respondent's reasons for refusing permission and refusing membership, this Tribunal finds that none of the rules of the Association were breached by the Respondent in refusing the Claimant's applications and there has been no evidence submitted by the Claimant which would in this Tribunal's view show that there was any breach of natural justice or fair procedures by the Respondent in arriving at their decisions.

- (4) The relief sought by the Claimant at paragraph 9 of the Request for Arbitration is as follows:-
- A direction to the Clarinbridge GAA Club Executive Committee to comply fully with the rules, regulations and goals of the Gaelic Athletic Association and to allow Oisín Connolly to participate in club activities (Gaelic Football) with his friends.
- (5) Galway County Board, by letter dated 26th May 2010 notified the Respondent that it was granting Oisín Connolly permission to play football and recommended that they accept his application for membership for football purposes. This tribunal has concerns about the legality of this decision but the Respondent has not sought to challenge the decision of County Board by seeking relief from the DRA on this matter. Clubs are bound to implement and apply decisions of their higher governing bodies. If they have a dispute with the higher body, they can appeal to the Provincial Council or if there is no right of appeal they can challenge the decision of the County Committee by invoking the jurisdiction of the DRA. Therefore while this Tribunal agrees with the Respondent's interpretation of the Rules of the Association, they failed to challenge the decision of Galway County Board.
- (6) The next issue to consider is the effect of the decision of Galway County Board communicated by letter dated 26th May 2010 to grant permission to Oisín Connolly to play football for Clarinbridge and to recommend that his application for membership be granted. The process by which a player becomes entitled to play football for another club where he is already a member of an exclusive hurling club is a two tier process. The Teoir Oifigiúil clearly provides that a person cannot be a member of a club for which he is ineligible to play and therefore, in order for the Respondent to consider the application of Oisín Connolly for membership, that player, namely Oisín Connolly, needed permission from the County Committee to play football with the Respondent. Therefore the decision of Galway County Board, communicated by letter dated 26th May 2010 merely enabled the Respondent to consider the Claimant's application for membership.
- (7) This Tribunal notes that under Teoir Oifigiúil 6.2 (1) it is only a Club that can grant membership and the Respondent has not in the view of this Tribunal breached any of the rules of the Association in refusing membership in this case. The evidence to this tribunal, which was not been contradicted by the Claimant, was that the application for membership received by the Respondent from Oisín Connolly dated 30th May 2010 was not signed by Oisín Connolly and was therefore in the view of the Respondent, invalid. In circumstances where an application for membership is unsigned and taking into account all of the circumstances of this case, this Tribunal finds that the Respondent did not breach

any of the rules of the Association in refusing membership to Oisín Connolly and did not breach any of the rules of natural justice or fair procedures in dealing with the matter. It is of course open to the Claimant to apply again for membership in which case the Respondent must treat the application on its merits.

- (8) The Respondent has indicated to the tribunal that it is not seeking its costs and therefore this tribunal makes no order as to costs but directs that the expenses of the DRA in connection with the hearing be borne by the Claimant.

Dated the 24th September 2010

Cian Kelly B.L, Chairman

Niall Cunningham

Sean MacThaidhg