

**DISPUTES RESOLUTION AUTHORITY**

RUAIRI O'DONGHAILE

DRA/17/2006

CLAIMANT

-and-

AN LÁR CHOISTE SMACHTA

RESPONDENT

**DECISION**

The Claimant is a player with the County Clare senior football team. On the 26<sup>th</sup> of March 2006 Clare played London at Ruislip, London in the National football League. The Claimant was issued with a red card by the referee. The referee's report stated that the offence was "striking opponent with the boot."

An Lár Choiste Smachta wrote to the Claimant on the 30<sup>th</sup> of March 2006 enclosing the referee's report and allowing the Claimant an opportunity to respond. An Lár Choiste Smachta held a hearing on the 5<sup>th</sup> of April 2006. The Claimant denied the charge. He called witnesses at the hearing and made submissions. The Claimant had a video that he submitted would corroborate some of his submissions but he did not use it.

The Claimant sought clarification of the referee's report. On receipt of the clarification an Lár Choiste Smachta made a decision to suspend the Claimant for 12 weeks from the date of the game in accordance with Rule 142(1)(B) T.O. 2006.

The Claimant appealed this decision. On the 3<sup>rd</sup> of May 2006 an Lár-Choiste Achomhairc refused the appeal stating that there was no proof that An Lár Choiste Smachta had infringed or misapplied any rule. The Claimant then requested Arbitration.

An Lár Choiste Smachta did not serve a Reply to the Claim. Notwithstanding this the Tribunal exercised its discretion under Article 7.6 of the Disputes Resolution Code to proceed with the hearing. An Lár Choiste Smachta made a number of preliminary applications including an adjournment, all of which were refused by the Tribunal.

The Claimant made the following submissions

1. In the notification of the 30<sup>th</sup> of March 2006, the Claimant's Christian name was in English and not in Irish. Also part of the address of the Claimant

was not in Irish. The Claimant submitted that this was in breach of Riail 10 of T. O. 2006.

2. The Referee's Report and the decision of An Lár Choiste Smachta referred to an offence of "Striking Opponent with the Boot." The Claimant submitted that this is not an offence within Treorai Oifiguil (2006) and that there was a breach of Riail 142 T. O. 2006.
3. At the hearing of An Lár Choiste Smachta the Claimant called a number of witnesses on his behalf. The Claimant contended that the Referee did not see the alleged incident, that an umpire sought his attention and that after consultation with the umpire the referee issued him with a red card. The Claimant contended that this was not clear from the referee's report. An Lár Choiste Smachta stated that it would seek clarification. An Lár Choiste Smachta received clarification and copied the clarification to the Claimant together with its decision. The Claimant submitted that he should have had an opportunity to respond to the clarification and an opportunity to make representations to An Lár Choiste Smachta. The Claimant submitted that there was a breach of Riail 146(d) of T. O. 2006 and a breach of the rules of natural justice. Riail 146(d) states as follows:

*The body or member alleged to have committed an offence shall not call match officials to give evidence or be cross-examined. The Committee in charge may hear the match officials privately. Any evidence of match officials shall subsequently be conveyed to the body/member in relation to the alleged offence.*

The Respondent's submissions were as follows:

1. The name used by An Lár Choiste Smachta was the name provided by the Secretary of Clare County Board. In addition correspondence from the Claimant did not refer to An Lár Choiste Smachta but the Central Disciplinary Committee and other correspondence did not correctly have the addressee's name in Irish.
2. The Claimant knows exactly what he was being charged with. He was being charged under Riail 142 T. O. 2006 for striking with the boot, which is kicking. The Respondent submitted that the Claimant was in no doubt as to the alleged offence.
3. The Respondent claimed that no evidence arose. A clarification was sought which confirmed what the Claimant already knew. Furthermore the Claimant had the clarification prior to the appeal to the Lár-Choiste Achomhairc.

The Respondent submitted that the Tribunal must determine whether there was an illegality at the hearing of the case. The Claimant stated that he could not produce any evidence of any illegality of the earlier decisions.

The Tribunal by a majority refused the reliefs sought by the Claimant.

The Tribunal found that there had been procedural errors on both sides in relation to Riail 10 of so minor a nature that the Claimant should not succeed on this point.

The Tribunal, by a majority, found that the Claimant knew exactly the offence with which he was charged. He was charged with and found in breach of an offence under Riail 142 (1)(B) of T. O. 2006. While the Referee did not use the word kicking, the words used were sufficiently clear and precise as to leave the Claimant in no doubt as to the alleged offence.

The GAA bodies had applied the rules of natural justice and had afforded the Claimant a fair hearing. He called witnesses, made submissions and could have used video evidence in his possession if he so wished. The clarification of the referee's report was conveyed to him however nothing arose from it. After this the Claimant had an appeal to the Lár-Choiste Achomhairc. The Tribunal did not find a breach of Riail 146(d) of T. O. (2006). The Tribunal did not find any illegality of any decision of the GAA bodies.

The Chairman dissenting, held for the Claimant on the Claimant's submission that the Referee's Report and the decision of An Lár Choiste Smachta referred to an offence of "Striking Opponent with the Boot" and that this is not an offence within Treorai Oifigiúil (2006).

Riail 142 (1) (B) creates a category of offences as follows:

"Striking with hurley, head, kicking or stamping"

The referee is specifically instructed at Page 3 of his Report to "be specific and concise" when dealing with offences for which players are sent from the field. If the allegation and complaint was that the Claimant kicked an opponent, then that should have been plainly set out. It is not sufficient to say that the words used were sufficiently clear and precise as to leave the Claimant in no doubt as to the alleged offence. Having regard to the severity of the sanction which a player is faced with if that player falls foul of Riail 142, a player is entitled at a minimum to be levied with an offence that is known and is specific under the rules. In the present case that did not happen. The offence charged is accordingly bad for lack of specificity. As Riail 142 is not the creation of the Claimant but rather that of the GAA then it must be interpreted *contra preferentum* where there are two competing interpretations open. Accordingly, in the opinion of the Chairman the Claimant is entitled to succeed in his appeal.

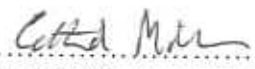
Accordingly by a majority decision WE DIRECT that the relief sought by the Claimant be refused and therefore his appeal must fail.

We invite submissions in writing as to any application for costs by either party.

Dated this 12<sup>th</sup> day of July, 2006.

Signed: .....  .....  
Lorcan Connolly (Chairman)

Signed: .....  .....  
Patrick McGrath

Signed: .....  .....  
Cathal Minihane.