

DISPUTES RESOLUTION AUTHORITY

Record No. DRA/17/2008

IN THE MATTER OF THE ARBITRATION ACTS 1954 TO 1980

AND

IN THE MATTER OF AN ARBITRATION BETWEEN

DECISION DATED 18<sup>TH</sup> DAY OF JULY 2008

AT DUNBOYNE, COUNTY MEATH

Between:

CÓILÍN Ó MÓRÁIN (Colin Moran)

Claimant

AND

TREASA NÍ RAGHAILL (Teresa Rehill)

(mar ionadaí in lár Choiste Éisteachta)

&

SEAMUS O DUINN (Jimmy Dunne)

(mar ionadaí ar son in lár Choiste Cheannais na gComortaisi)

&

PÁRAIC Ó DUFAIGH (Patrick Duffy)

(mar ionadaí ar son in lár Choiste Achomhairc)

Respondents

We, the undersigned have found as follows:

**BACKGROUND**

Colin Moran is a member of Bhaile Brudan Naomh Aine and was a member of Dublin Senior Football Team who played against Westmeath on the 29<sup>th</sup> June 2008 at Croke Park. During the game an incident occurred which was dealt with by the Referee Padraig Ó hAodha who cautioned Colin Moran who was wearing No. 5 for rough play as stated in his Report and he showed the yellow card to Mr. Moran.

At a meeting of the Central Competitions Control Committee (C.C.C.C) a copy of the Referee's Report was considered and a clip of the incident was viewed by the said Committee and it was referred to the Secretary Ms. Rehill to contact the Referee and obtain clarification of the Referee's Report in respect of the incident in question. An email was sent by Ms. Rehill to the Referee with the following request "*having viewed the video, do you feel that the incident shown involving Bhaile Átha Cliath No. 5 and Iar Mhí No. 15 was adequately dealt with by the issuing of a Yellow Card to the Bhaile Átha Cliath No. 5?*" The video clip was attached also for viewing by the Referee. The reply received was as follows "*after reviewing the video clip, the yellow card I issued for rough play at the time should have been a straight red card*

*for dangerous play*". The C.C.C.C decided that in the event of the Referee deciding that he inadequately dealt with the incident (infraction) that the decision was brought by the Committee that a charge of "behaving in any way which is dangerous to an opponent", which is classified as a Category II playing infraction carrying a penalty as set out in Rule 146 T.O.2008 – a minimum penalty of four weeks suspension in the same code and at the same level inclusive of the next game in the same competition of that competition year, be laid against Colin Moran. This decision was conveyed by Letter to Colin Moran on the 1<sup>st</sup> of July 2008.

Mr. Moran did not accept the penalty proposed by the CCCC and sought a hearing at the Central Hearing Committee (C.H.C) who decided on a vote of 3 to 2 to impose the penalty as set out in Rule 146T.O.2008. This decision was taken on the 3<sup>rd</sup> July 2008. The decision was appealed by Colin Moran and was heard by the Central Appeals Committee (C.A.C) who decided that the appeal should fail under Rule 155(m) T.O.2008 that the Central Hearing Committee had not been shown to have infringed or misapplied the rules quoted in the Appeal. The claimant appealed to this Tribunal.

### **CLAIMANT'S CASE**

The Claimant has set out the following points against the Respondents:

1. That persons who are not members of the C.C.C.C investigated this incident on behalf of the C.C.C.C.
2. A person who is not a member of the C.C.C.C attended before the C.H.C and carried out the duties of the C.C.C.C.
3. The Referee's Report was received after such time as clarification of the Report was sought.
4. The C.C.C.C deliberately revealed details of the "Proposed Penalty" to both the media and the C.H.C.
5. The C.C.C.C sought a clarification in a manner that amounted to a request to the Referee to change his Report.
6. Alternatively a clarification was sought and the incident investigated in the manner that was in breach of Rules 147(d)(e) and (f).
7. The C.A.C heard in finding that a rule had not breached or misapplied by either the C.C.C.C or the C.H.C.
8. The C.C.C.C failed to prove its case. It failed at the C.H.C hearing to show what infraction had occurred and when. The timing of the Referee's Report having been disputed it failed to prove that the Report was received pre-clarification.

## DECISION OF THE TRIBUNAL

The Tribunal having heard submissions from Donagh McDonagh B.L on behalf of the Claimant and by John Hogan Solicitor of Lemans Solicitors for the Respondent and hearing evidence given on oath by Teresa Rehill, Jimmy Dunne, Colin Moran and having viewed the video and considered in particular the standards as set out by Judge McMahon in Barry and *Rogers –v- Ginnity & others* and Mr. Justice Henchy in “*the state (Keegan) –v- the Stardust Victims Compensation Tribunal*” and having considered all the matters before them adjudicated as follows:

The Tribunal

1. is satisfied that investigation of the incident (infraction) was not improperly carried out by the C.C.C.C.
2. is satisfied that the case was properly presented by a member of the C.C.C.C to CHC and that the Secretary of the C.C.C.C attended for the purpose of support and clarification of points raised at the hearing.
3. accepts the evidence of the C.C.C.C representatives (chairman and secretary) in relation to the timing of the receipt of the Referee’s Report.
4. not considered as withdrawn by Mr. McDonagh B.L.
5. is satisfied that the form of request for clarification did not amount to a request to the Referee to change his report.
6. is satisfied that clarification was sought and investigation carried out was in accordance with the relevant rules.
7. is satisfied that the C.A.C were correct in finding that the C.H.C did not breach or misapply a rule.
8. satisfied that the decision of C.H.C is unreasonable and perverse and plainly and unambiguously flies in the face of reason and common sense being the standard as set out by Mr. Justice Henchy in “*the state (Keegan) –v- the Stardust Victims Compensation Tribunal*”

## DETERMINATION

The Tribunal have taken all the above findings into account and the decision of the Tribunal is that the suspension imposed on the claimant is quashed with immediate effect.

## COSTS

The Tribunal finds as follows having heard submissions from Mr. McDonagh and Mr. Hogan as follows:

- There is no Order as to costs as each party have agreed to meet their own costs.
- The costs of the Tribunal are to be discharged evenly between the parties.
- Particulars of costs to be furnished to the parties by the Secretary of D.R.A.
- Liberty to apply.

Oliver Shanley  
(Chairman)

Damien Maguire

Peter Quinn