

**DISPUTES RESOLUTION AUTHORITY**

**Record No. DRA/18/2010**

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

**Between**

**MICHEAL O'GALLACHOIR**

**DARRAGH O'NEILL**

**&**

**STIOFAN O'MAOLAIN**

**Claimants**

**And**

**COISTE EISTEACHA CUIGE COMHAIRLE ULADH**

**&**

**COISTE CHEANNAIS NA gCHOMORTAISÍ CHONTAE TIR EOGHAIN**

**&**

**COISTE EISTEACHA CHONTAE TIR EOGHAIN**

**Respondents**

We, the undersigned, have found as follows:

**Background**

1. The Claimants are members of Omagh St Endas GAA Club. Each is a member of the club's senior football team and each played for the club in the quarter final of the Tyrone Senior Football Championship on Sunday 29<sup>th</sup> August 2010.
2. A fracas developed during the course of the match. In his report of the match the referee stated as follows:

*"I was in the process of dealing with the issuing of a red card to Justin McMahon when a melee broke out near the sideline just behind my back. There were several players from both sides involved in a bout of jostling, pushing and punches were thrown. My 2<sup>nd</sup> linesman, Francie Gallagher, observed the fracas and informed me that the Ardboe No.13 Gavin Wylie had struck an Omagh player with the head. I proceeded to issue the Ardboe No. 13 with a Red Card".*

3. Notices of Disciplinary Action dated 2<sup>nd</sup> September 2010 were sent to all three Claimants whereby each was advised that Coiste Cheannais na gCommortaisi Chontae Tir Eoghain had met on the preceding day and was proposing to impose penalties on each Claimant. As was their entitlement each Claimant opted to request a hearing before Coiste Eisteacha Chontae Tir Eoghain.
4. A hearing took place on the 9<sup>th</sup> day of September 2010 and by written decisions dated 10<sup>th</sup> September 2010 Coiste Eisteacha Chontae Tir Eoghain imposed the following suspensions upon the Claimants: - eight weeks in respect of the first named Claimant and four weeks in respect of both the second and third named Claimants.
5. The Claimants appealed these decisions to Coiste Eisteacha Cuige Comhairle Uladh and that appeal was heard on the 30<sup>th</sup> September 2010. Coiste Eisteacha Cuige Comhairle Uladh upheld the decisions of Coiste Eisteacha Chontae Tir Eoghain.

### **CLAIMANT'S CASE**

6. The Claimant's case before this Tribunal had three strands.
  - a) That because the referees report upon which disciplinary proceedings were premised failed to disclose an infraction that Coiste Cheannais na gCommortaisi Chontae Tir Eoghain were obliged before commencing disciplinary action to seek a clarification from the referee pursuant to the requirements of Rule 7.3(d)(i) and Rule 7.3(d)9(ii), T.O 2010.
  - b) That there was an essential unfairness and breach of fair procedures whereby before the Coiste Eisteacha Chontae Tir Eoghain and Coiste Eisteacha Cuige Comhairle Uladh the Claimants were asked to meet one case – namely that the disciplinary proceedings were premised upon Rule 7.3(d)(i), whereas before this forum the Claimants were asked to meet another case, namely that the disciplinary proceedings were premised upon Rule 7.3(d)(ii).
  - c) That a viewing of the video evidence of the fracas would show that the decision of Coiste Eisteacha Chontae Tir Eoghain to find that these were category 4 offences was baseless. The Claimants relied upon the decision of the DRA in Colin Moran.

## **FINDINGS**

7. The Tribunal's findings are as follows:

- a) That an infraction was disclosed on the referee's report such as permitted the Coiste Cheannais na gCommortaisi Chontae Tir Eoghain to act in the manner that it did. Specifically the portion of the referee's report which read: "*There were several players from both sides involved in a bout of jostling, pushing and punches were thrown*" referred to matters clearly not dealt with by the referee but which were clear infractions of rule such as entitled Coiste Cheannais na gCommortaisi Chontae Tir Eoghain to proceed to investigate the matter without the need to seek any further clarification from the referee.
- b) That no unfairness or prejudice was caused to the Claimants in the manner in which either Coiste Eisteacha Chontae Tir Eoghain or Coiste Eisteacha Cuige Comhairle Uladh considered and disposed of their cases. Video evidence was shown in both fora and the Tribunal is satisfied that what Coiste Cheannais na gCommortaisi Chontae Tir Eoghain did in both instances was submit the referee's report and the relevant video evidence and asked Coiste Eisteacha Chontae Tir Eoghain and Coiste Eisteacha Cuige Comhairle Uladh to make what findings it would based on those pieces of evidence. It is noted that additional video evidence adduced on behalf of the Claimants was admitted and ultimately served to exonerate one of their team mates.
- c) The Tribunal finds that it is inappropriate that it reconsider the video evidence, it having been fully considered by both the Coiste Eisteacha Chontae Tir Eoghain and Coiste Eisteacha Cuige Comhairle Uladh previously and the Tribunal feels it outside the scope of its role to substitute its view of video evidence previously very thoroughly considered.

## **DETERMINATION**

8. The Tribunal directs:

- a) That the Claimants' applications be refused;
- b) The request for Arbitration was understandable and we therefore make no order in respect of the Respondent's costs.
- c) That the costs of the DRA be borne by the Claimants.
- d) Liberty to apply;

Dated this 9<sup>th</sup> June, 2011

*Aaron Shearer*

Aaron Shearer

*Damien Maguire*

Damien Maguire

*Jarlath Burns*

Jarlath Burns