

**AN CORAS EADRANA  
DISPUTES RESOLUTION AUTHORITY**

**DRA 19/2010**

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

**ERIC MACCORMAIC**

**CLAIMANT**

**AND**

**COISTE ÉISTEACHTA CEATHARLOCH, COISTE ÉISTEACHTA LAIGHEAN  
AGUS COISTE ÉISTEACHTA ACHOMHAIRC**

**RESPONDENTS**

**Background**

This matter arises from a game played in the Carlow Senior Football Championship between Éire Óg and Old Leighlin on the 28<sup>th</sup> August 2010. The Claimant received a red card for allegedly attempting to strike with a linesman with his head. Following a meeting of Carlow Competitions Control Committee a notice of disciplinary action was issued on the 20<sup>th</sup> August 2010 outlining a proposed “two year suspension” under Rule 7.2 which states the minimum suspension. The Claimant opted to request a hearing before the Hearings Committee and a meeting of the Hearings Committee of Carlow County Board was held on the 8<sup>th</sup> September 2010. Arising from this hearing the following penalty was imposed:-

“96 weeks suspension in all codes and at all levels dated from the 22<sup>nd</sup> August 2010”. This decision was stated to be taken pursuant to Rule 7.2(b) category (v)(i) 7.5(b).

An appeal was lodged with Leinster Council Hearings Committee on the 13<sup>th</sup> September 2010 and by letter dated the 15<sup>th</sup> September 2010 the Claimant was notified by Leinster Councils Hearings Committee that the appeal would not be heard as it was received outside the timeframe stipulated in 7.11(d)TO 2009 and that it also failed to comply with Rule 1.7 TO of 2009. The Claimant corresponded with Leinster Councils Hearings Committee on the 16<sup>th</sup> September 2010 outlining that his official notice of the imposition of penalty was not received until the 13<sup>th</sup> September 2010 and because he hadn't received notice until that time his appeal to Leinster Council had been lodged within the required timeframe.

The Claimant at this hearing through his representative Mr Gerry O'Brien outlined in his submissions that what happened here was that the Club Secretary didn't relay in time the result of the hearing before Carlow Hearings Committee to the Claimant therefore depriving him of the opportunity to appeal within the prescribed three day time period.

Leinster Councils Hearings Committee in their reply to the Claimants letter of the 16<sup>th</sup> September 2010 stated as follows:-

“Following a meeting of Coiste Éisteachta Laighean held on the 17<sup>th</sup> September 2010 I regret to advise that your appeal will not be heard by Coiste Éisteachta Laighean as it failed to comply with the timeframe stipulated in Rule 7.11(d)TO 2009.”

The Claimant appealed this decision of the Leinster Councils Hearings Committee to the Central Appeals Committee on the 20<sup>th</sup> September 2010 and this appeal was rejected following a hearing before the Central Appeals Committee by letter dated the 29<sup>th</sup> September 2010.

### **Preliminary Issue**

Simon Moroney of the Central Appeals Committee presented a preliminary application on behalf of the Central Appeals Committee and also on behalf of Leinster Councils Hearings Committee. He outlined that the Claimant had not in fact got a full hearing before the Leinster Hearings Committee by virtue of the fact that his appeal had been ruled out of order due to its being lodged outside the three day period provided under Rule for the lodgement of such appeals. He outlined that Leinster Councils Hearings Committee and the Central Appeals Committee were of the opinion that the Disputes Resolution Authority did not have jurisdiction in this case and he cited 2 previous DRA decisions, DRA 9/2009 and DRA Decisions 30/31/32 of 2005 as precedents for this view.

Mr Moroney referred to paragraph 13 of the DRA Decision 30/31/32/2005 (the Warwickshire case) which states “The Tribunal finds that in failing to properly constitute an appeal against a decision at first instance and in accordance with Rule 146 of the Official Guide 2003 a Claimant necessarily prevents all avenues of appeal open to it from being exhausted. An appeal deemed invalid is in the view of the Tribunal not an appeal at all”.

Mr Gerry O’Brien Solicitor for the Claimant in response outlined that in the Warwickshire case the decision in dispute was ultimately quashed by that Tribunal as being ultra vires. He submitted that in this case the Respondents’ decisions were void as the decisions communicated to the Claimant quoted rules from the 2009 version of the Official Guide while the Official Guide 2010 was in existence and that the Tribunal were entitled to exercise their jurisdiction to hear this case having regard to all of the circumstances.

### **Preliminary Ruling**

Having the submissions from all parties and having regard to the earlier “Warwickshire case” and the earlier Grattan Og DRA case 9/2009 it is the unanimous decision of this Tribunal that the Claimant has not exhausted all avenues of appeal in respect of the substantive issue in dispute here and therefore this Tribunal has no jurisdiction to deal with the merits of the Claimant’s case.

However this Tribunal is of the view that any decision to deem an appeal invalid should itself be capable of being appealed and therefore this hearing will now proceed dealing with the

single issue of whether or not the Central Appeals Committee were correct in upholding the decision of Leinster Council to deem this appeal invalid for being out of time.

### **Submissions**

Mr Gerry O'Brien outlined that this Claimant had been sent off for an alleged infraction on the 22<sup>nd</sup> August 2010. He said the GAA Congress in 2010 met on the 19<sup>th</sup> April 2010 and that the Teor Oifigiul came into force one month later as provided for at paragraph 3.34(g) of Teor Oifigiul 2010. The Carlow Senior Football Championship commenced on the 1<sup>st</sup> July 2010 and therefore it is with reference to the Teor Oifigiul 2010 that all disciplinary matters should be dealt with. Mr O'Brien submitted that all members and units of the Association are bound completely by the most current version of the Rules in that the Claimant was entitled to be dealt with under the Teor Oifigiul 2010 and not with reference to any earlier version.

He outlined that the notice of disciplinary action dated the 30<sup>th</sup> August 2010 furnished by Carlow Competitions Control Committee to the Claimant referred only to the Teor Oifigiul 2009 notwithstanding the fact that the Teor Oifigiul 2010 was then in force and in fact had amended the Teor Oifigiul 2009 in respect of category five infractions. Gerry O'Brien referred to DRA case 1/2005 (The Vaughan case) which made it clear that the Teor Oifigiul is a contractual agreement between the player and the Association. He said that the DRA Code itself makes it clear that everyone is bound by the current rules and he referred to the DRA case 7/2007 (The Jackie Hyland case) in which case three or four versions of the rules were in play, and due to confusion the DRA allowed reference to various Teor Oifigiuls. This, he submitted was not the case here, and that it was beyond question that the most up to date version of the Teor Oifigiul applied. He said that the disciplinary process must be strictly adhered to by all units of the association seeking to enforce the rules against individuals and that he could clearly show prejudice in relation to the failure to apply to the most recent rules as the definition of category V infractions had been amended in the TO 2010.

Mr Moroney for the Central Appeals Committee pointed out that in the Grattan Og case, DRA 12/2010, the Tribunal made the finding that new issues couldn't be raised before a Tribunal which weren't in fact raised before the body which dealt with the original appeal. He expanded this point to indicate that Provincial Councils are limited to dealing with the points raised in an appeal from a Hearings Committee. He said that the rules are very specific and he said that both Leinster Hearings Committee were limited to dealing with the issues raised in the Notice of Appeal sent to it and furthermore that Central Appeals Committee were strictly limited to dealing with the points raised in the Notice of Appeal sent to them. He said that no argument was advanced before the Central Appeals Committee that any rules to be misapplied or that any injustice had occurred. He submitted that the Central Appeals Committee must deal with the appeal that it receives exactly as it is worded.

Mr Gerry O'Brien in reply outlined that he was not making the case that the Central Appeals Committee applied any incorrect procedures but rather that they dealt with his appeal under the Teor Oifigiul under the 2009 rather than the Teor Oifigiul 2010. Mr O'Brien submitted that this was a case where the GAA bodies used the right procedures but the wrong rules in imposing penalties.

## **Decision**

When the Central Appeals Committee communicated their decision to the Claimant by letter dated 29<sup>th</sup> September 2010, they referred in their letter throughout to the Teor Oifiguil 2009. It is therefore not clear to this Tribunal that Central Appeals Committee applied the rules in force in 2010 in reaching their decision and for that reason this Tribunal is quashing the decision of the Central Appeals Committee as communicated to the Claimant on the 29<sup>th</sup> September 2010. This Tribunal is remitting this matter back to the Central Appeals Committee for reprocessing and we are directing that in dealing with appeal from Leinster Council to the Central Appeals Committee the Central Appeals Committee must have regard to and apply the Teor Oifiguil 2010.

This Tribunal directs that the Claimant be refunded his deposit lodged with the Disputes Resolution Authority.

In relation to the issue of costs this Tribunal makes no Order as to costs against the Carlow Hearings Committee or the Leinster Council Hearings Committee. This Tribunal directs that the Central Appeals Committee discharge the expenses of the DRA and further discharges the Claimant's legal costs in respect of the narrow matter on which the Claimant has succeeded, namely the overturning of the decision of Central Appeals Committee to uphold the decision of Leinster Council deeming the appeal lodged with them as being out of time.

The parties are given liberty to apply.

Dated this 16<sup>th</sup> day of February, 2011.

Signed:

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Tony Williams  
Chairperson

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John Hyland B.L.

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Brendan Ward