

**DISPUTES RESOLUTION AUTHORITY**

**AN CORAS EADRANA**

**IN THE MATTER OF AN ARBITRATION CONDUCTED PURSUANT TO THE  
CODE OF THE DRA AND PURSUANT TO THE ARBITRATION ACT 2010**

**Record No. DRA 20/2010**

**Between:**

**SEAMUS MacTADHG**

**Claimant**

**And**

**COISTE CHEANNAIS NA GCOMORTAISÍ LIATROMA, COISTE  
EISTEACHTA LIATROMA CLG AGUS COISTE EISTEACHTA CHONNACHT  
CUMANN LUTHCHLEAS GAEL**

**Respondent**

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**DECISION AND STATEMENT OF REASONS**

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**Background and facts**

1. The Claimant is 20 years old and is a member of Sean Ui Eislin Club. He was represented before the Tribunal by James Clarke and Cathaldus Hartin
2. The Respondents were represented by James Faughnan solicitor.
3. The Claimant played in a Junior Championship match on the 28<sup>th</sup> of August 2010, between Beal an Atha Moir Sean Ui Eislin and Droim Caorthainn CLG. The Claimant was reported by the Match Referee for “attempting to strike a match official” during the said match.
4. On the 26<sup>th</sup> of September 2010 the Competitors Control Committee Liatroma (herein referred to as CCC Liatroma) at their meeting had the opportunity to consider the contents of the Referee’s Report in respect of the said match, the subject matter of the within Arbitration.

5. The Claimant was notified by Notice of Disciplinary Action dated the 27<sup>th</sup> of September 2010, from Coiste Chontae Liatroma, that the contents of the Referee's Report had been considered and that the claimant had been reported to have committed an infraction of "forcibly attempting to strike a referee with football" which is classified as a Category III a Infraction and an appropriate penalty is set out in Rule 7.2 to 2009.". The Claimant was notified that pursuant to its powers the Competitors Control Committee would propose a " penalty of 12 weeks suspension from the date of the last game played". The Claimant was also notified of his entitlement to request a Hearing before the Hearings Committee.
6. The Claimant requested a Hearing before the Hearings Committee by Reply to the Notification of Disciplinary Action dated the 30<sup>th</sup> of September 2010.
7. The Hearings Committee convened on the 5<sup>th</sup> of October 2010, and by Notice of Decision dated the 6<sup>th</sup> of October 2010, notified the Claimant of the Committee's Decision to impose upon the Claimant a penalty of 12 weeks suspension from the date of the last game played, for having been reported to have committed the infraction of "pushing of and verbal abuse of the referee" which it classified as a category IV infraction.
8. The Claimant notified Coiste Eisteachta Connachta C.L.G. of his decision to Appeal the decision of Coiste Eisteacha Liatroma made on the 5<sup>th</sup> of October 2010. The Claimant requested an Oral Hearing, and in view of the fact that the Claimant was due to play with his Club in the Under 21 Championship on the week ending the 17<sup>th</sup> of October 2010, the Claimant requested a Hearing not later than the 13<sup>th</sup> of October 2010.
9. An Appeal was heard on the 13<sup>th</sup> of October 2010. Notice of the Decision of the said Appeal was dated the 14<sup>th</sup> of October 2010. Coiste Eisteachta Connacht decided that an Appeal was lost in accordance with Rial 7.11 (m) T.O. 2010.
10. The Claimant submitted a Claim for Arbitration Hearing, by the Disputes Resolution Authority. This matter came before the Disputes Resolution Authority on the 15<sup>th</sup> of December 2010 at 8p.m.

### **Preliminary Applications/Issues**

11. At the outset of the Hearing a Preliminary Issue was raised, in respect of the Affidavit, sworn by Mr. David Leyden which the Claimant sought to admit. The Affidavit of Mr. David Leyden sworn on the 22<sup>nd</sup> of November 2010, made averments, that the Deponent was in fact the individual who committed the offence in question and not the Claimant, on the 28<sup>th</sup> of August 2010.
12. Both the Legal Representatives of the Claimant and the Respondent were given opportunities to address the Tribunal members on the grounds upon which they sought to rely and object to the admission of the said Affidavit respectively. The

Tribunal Members enquired as to the availability of the Deponent to give Oral Evidence, if a decision was made to allow the admission of the said Affidavit. The Tribunal was informed by the Claimant that the Deponent of the Affidavit was outside of the jurisdiction at present, but would be in a position to travel to give evidence at a later date if so required.

13. Having taken some time to consider the application in respect of the preliminary issue, the Tribunal unanimously decided to reserve its position and proceed to the substantive hearing of the matter. The Tribunal would revisit the issue, if necessary, during the course of the hearing.

#### **Submissions on behalf of the Claimant**

14. James Clarke on behalf of the Claimant stated that this was a case of mistaken identity. It was submitted that the Claimant was not involved in any incident with the Referee and particularly not the incident referred to in the Referee's Report. It was further stated that the Claimant had been denied the right to vindicate his good name by the failure of the Respondents to adhere to the procedures as set out in the Official Guide 2010 and had denied him the right to natural justice and Fair procedure as envisaged in the 2010 Official Guide of Cumann Luthcleas Gael and the laws of Ireland. It was submitted that the other parties from the Claimant's Club referred to in the Referees' Report had accepted their suspensions and what had occurred during the match on the 28<sup>th</sup> of August 2010 was wrong, but that the Claimant had appealed on the basis that he was an innocent party.
15. The Claimant made legal submissions to the Tribunal. He referred to Rules 3.22, 7.2, 7.3, and 7.11 of the Official Guide 2010 throughout his submissions. The Claimant also referred to Rules of Natural and Constitutional Justice and Fair Procedures as enshrined in the Official Guides of Cumann Luthcleas Gael and the Laws of Ireland. The Claimant referred to and submitted two previous Decision of the DRA namely; *Cumann Grattan Og –v- Coiste Cheannais na gComortasai Longfoirt agus Coiste Eisteachta Laighean CLG (DRA 12/2010)* and *Ross Carr –v- Jimmy Dunne (as nominee for and on behalf of the Central Competitions Control Committee) and John Heaphy (as nominee for and on behalf of Central Hearings Committee) and Paraic O'Duffy (as nominee for and on behalf of the Central Appeals Committee) Interim Decision (DRA/14/2008)*. The Tribunal was also referred to the decision of his Honour Judge Byran McMahan delivered on the 13<sup>th</sup> of April 2005 in the matter of *Martin Barry –v- Fintan Ginnity, Bernard Allen and Nicholas Brennan*, and *Desmond Rogers –v- Fintan Ginmty, Bernard Allen and Nicholas Brennan*. Furthermore the Claimant submitted an extract from the Annual Report 2005, Tuarascail and Ard Stiurthora. The Claimant also submitted an extract a newspaper Article dated Wednesday the 19<sup>th</sup> of May 2004, on the Decision of his Honour Mr. Justice McKechnie in the Barden case.

16. The Claimant referred to Rule 7.3 (h) of the Official Guide, and stated that where a Disciplinary Action is commenced that the CCC shall investigate same in an “expedient manner”. The Claimant submitted that the Referee’s Report in respect of the match in question was submitted on the 29<sup>th</sup> of August 2010, and yet the Claimant submitted that the CCC “did not see fit to deal with same until the 26<sup>th</sup> of September 2010.”
  
17. The Claimant made further submissions that Coiste Eisteachta Laitroma had infringed or misapplied Rules 7.2 (b) and 7.3 (a) (1) (vi) Official Guide 2010 in determining that the Claimant had committed an infraction of “pushing of and verbal abuse of a referee” which is classified as a Category IV Infraction when there is no reference to such an Infraction in the Referee’s Report. Following on from this point it was submitted that the Claimant was essentially found to have committed an offence which was not the offence contained in the Referee’s Report. It was submitted that Coiste Eisteach Chonnacht breached Rule 7.3(k) Official Guide 2010 by failing to uphold his Appeal, wherein they amended or allowed the representatives of Coiste Cheannais nd gComortaisi Liatroma to amend the Notice of Disciplinary Action sent to the Claimant on the 27<sup>th</sup> of September 2010, in a manner which was contrary to the Official Rules, and Fair Procedure and Natural Justice.
  
18. The Claimant submitted that the Leitrim CCC had breached Rule 3.22. of the Official Rules and the Rules of Fair Procedure and Natural justice of the laws of Ireland by failing to provide video coverage of the game in question, which if had been available would have corroborated the Claimant’s account and submission that this was a case of mistaken identity.

#### **Submissions on behalf of the Respondent**

19. James Faughnan stated on behalf of the Respondent that proper procedures had been followed. He added that the Leitrim CCC and Coiste Eisteach Chonnacht could only assess the evidence before them. It was submitted that the only compelling evidence before the Hearings Committee was the Referee’s Report in the absence of any video evidence. It was submitted that the Claimant did not tender at any of the previous hearings any additional evidence to corroborate his claim of mistaken identity. It was submitted that ultimately that both the Leitrim CCC and the Coiste Eisteach Chonnacht could only assess the evidence which was before them. It was submitted that no new evidence should be allowed in any hearing before the Disputes Resolution Authority. It was submitted that the claimant knew that all notifications related to a category IV offence.

#### **Decision and Award**

20. Having considered the evidence and submissions of the parties, the Tribunal is not satisfied that Coiste Eisteachta Liatroma had infringed and/or misapplied Rules 7.2 (b) and 7.3 (aa) (1) (vi) Official Guide 2010 in determining that the Claimant has committed an Infraction of “pushing of and verbal abuse of a referee” which is classified as a Category IV Infraction where no such infraction was referred to in the Referee’s Report.
21. Furthermore the Tribunal finds that in the interests of Justice and Fair Procedure the matter should revert back to Leitrim CCC for a fresh hearing of the matter, and directed that all relevant evidence be offered and tendered before this re-hearing.
22. The Tribunal made a general observation that there is no obligation on Coiste Cheannais na gComortaisi Liatroma or CCC’s generally to provide video coverage of games.
23. The Tribunal makes no Order as to costs against either the Claimant or the Respondent in light of the conduct of both parties in this matter.

This is the unanimous decision of the Tribunal

Richella Carpenter B.L. \_\_\_\_\_

Alan Gannon \_\_\_\_\_

John Fay \_\_\_\_\_

Dated this the 27<sup>th</sup> of January 2011.