

IN THE MATTER OF THE ARBITRATION ACTS 1954 TO 1980 AND THE DISPUTES
RESOLUTION CODE OF THE GAA

TOMÁIS Ó FEARGHAIL CLAIMANT

PÁDRAIG Ó LAIDHNEADH AND SEÁN Ó HÍOPHÁIN (MAR IONADAI AR SON
CUMANN LUTHCHLEAS GAEL BORD CHONTAE NA H-IARMHÍ) RESPONDENT

Leinster Council was a notice party but did not attend.

Hearing at Dunboyne Castle Hotel 25 October 2008, 11 am.

Background:-

1. This matter arises from incidents at the end of the Westmeath Senior Football Championship Semi Final between Tyrellspass and Castledaly at Cusack Park, Mullingar on Sunday 28 September 2008. The Claimant – who is Chairman of the Westmeath County Board – was reported by the referee, Mr Alan McCormack for making certain remarks to him after the game. The Claimant is not a member of either club involved in the game.
2. By notice dated 7 September 2008 (accepted on all sides to have been intended to read 7 October 2008 – and therefore nothing turns on this matter) the Claimant was notified by the Secretary of Westmeath CCC that he had been reported for committing the infraction of “Verbal towards a referee” under rule 146 (d) (3) of the Rules of the Official Guide. A penalty of 4 weeks suspension was proposed.
3. The Claimant requested a hearing before the Westmeath Hearings Committee. The hearing took place on 18 October and on 20 October 2008 the Hearings Committee notified the Claimant that its decision was to “impose an eight (8) week suspension from the date of the hearing”. The notice further stated that “this decision was taken pursuant to Rule(s) 146 (e) and 147 6 (bb)”.
4. The Claimant appealed this decision to the Leinster Council. The matter was originally to have been heard on 24 October 2008, but due to unavailability of members of the Westmeath Hearings Committee to attend on that day the matter was postponed to hearing on 1 November 2008.
5. The grounds of the appeal are that the Claimant was notified that an offence was proposed under Rule 146 (d) (3). He asserts that this rule should not have applied to him as he is not a player team official or supporter as described in Rule 146 (d) (3). He further asserts that the Westmeath Hearings Committee suspended him under Rules 146(e) and 147 (6) (bb). He asserts that he had no prior notice of an offence under Rule 146(e) and that therefore the Hearings Committee had no entitlement to replace the offence put forward by the CCC with a more serious offence. He also asserts that there is no Rule 147 (6) (bb) in the Official Guide. His final ground of appeal (in his own words) is that “the suspension proposed by the CCC of 1 month was discussed at the meeting of the Westmeath Hearings Committee on 18 October 2008. This disclosure breaches the Treor Oifigiuil Rule 147(7) 6”. (The Tribunal noted that there is no such rule but this was not raised as an issue by the Respondents).

6. As a result the Claimant sought an interim ruling from the Disputes Resolution Authority, by notice dated 24 October 2008, seeking to have his suspension set aside pending the hearing of his appeal. The Claimant sought the ruling on the grounds that his four sons were playing in the Westmeath County Intermediate Football Final on 26 October 2008 for the Maryland team, and both the Claimants and the Respondents accepted that it would be a unique and historic occasion for the Claimant to present the Cup to his sons in these circumstances in the event of Maryland being victorious. Inability to present the Cup would operate as a serious injustice to the Claimant, in his view. His contention was that the Leinster Council having postponed its hearing, there was no avenue of appeal available to him to avoid this injustice and that therefore the matter was properly before the Disputes Resolution Authority.

Proceedings.

7. The Claimant had sought in the alternative (a) a full hearing of the matter before the DRA or (b) a hearing for interim relief. As the Respondents had very little notice of the hearing they objected to a full hearing proceeding. The Claimants therefore accepted that the matter would be a hearing for interim relief.
8. The Claimant then outlined his case for interim relief. On the basis of the grounds of appeal set out above he asserted that he had a stateable case. When the Respondents were asked by the Tribunal whether they disputed this, they said that they did not.
9. The Claimant then outlined his case as above, that inability to be present at the intermediate final and act in his capacity as Chairman of Westmeath County Board would constitute serious prejudice to him. Again the Tribunal asked the Respondents whether they would dispute this assertion and they responded that they did not. They stated that they had no objection to the relief sought by the Claimant and “were prepared to accept whatever the DRA would order”.

Decision.

10. The Tribunal found as follows :-
 - (a) in the absence of any argument from the Respondents to the contrary, that the DRA properly had jurisdiction in the matter,
 - (b) in the absence of any argument from the Respondents to the contrary, that the Claimant had a stateable case, and
 - (c) in the absence of any argument from the Respondents to the contrary, that there is inconvenience or injustice to the Claimant,

the Tribunal had no alternative but to grant the following interim relief:-

The Claimant’s suspension be set aside only for the period (the “set aside period”) from the date hereof to the date the matter is dealt with by Leinster Council and in the event that Leinster Council find against the Claimant on appeal that the set aside period be added on to the date that the suspension would originally have expired.

The Tribunal was also of the view that given that there appeared to be no substantive difference of opinion between the parties on the matters at hand, and that therefore this

was a matter which could have been agreed between the parties, it should not have been referred to the decision of the Tribunal.

The Tribunal also noted that there are tests laid down in case law in relation to the balance of inconvenience, most recently in the case of Jacob v Irish Amateur Rowing Union Limited, but these tests were not argued before the Tribunal. As the case law was not argued and as the case was in all other respects effectively undefended, the Tribunal stressed that it had no alternative but to find for the Claimant.

The matter of costs was reserved.

25 October 2008.

Declan Hallissey

Damien Maguire

Jim Murphy (Chairman).