

DISPUTES RESOLUTION AUTHORITY
An Corus Eadrana

Case Reference No: 21/2010

Between:

**Daithi Bairead, Gabriel O’Healigh, Donal O’Ciabara & Cummann Gaeil An
Lathair CLG**

Claimants

-and-

**Coiste Eisteachta Connacht, Coiste Eisteachta Sligeach & Coiste Cheannais na
gComortaisi Sligeach**

Respondents

This matter came before the Tribunal as a result of the submission by the Claimants of ‘Form 1: Request for Arbitration’ pursuant to the Disputes Resolution Code (T.O. 2010) dated 17th November 2010 to the Secretary of the Disputes Resolution Authority.

It was a request to review the decision of Coiste Eisteachta Connacht (Connacht Council) dated 11th November 2010 in which Connacht Council dismissed the appeal of the Claimants and upheld the decision of Cosite Eisteachta Sligeach (Sligo Hearings Committee) at its reconvened hearing on the 2nd November 2010 (original hearing having taken place on the 28th October 2010) following an investigation and recommendations of Coiste Cheannais na gComortaisi Sligeach (CCC) at its meeting on the 20th October 2010.

The decision of Sligo Hearings Committee was that the first named Claimant had not transferred officially to Cummann Gaeil an Iarthair and it therefore imposed suspensions on the first, second and third named claimants for 48 weeks together with forfeiture of the Sligo Hurling Championship Final on the 10th October 2010 without award of game to the opposing team (such decision having being taken it is alleged in accordance with rule 6.9 and 7.3 T.O. 2010) which said decision was subsequently being upheld by Connacht Council.

Connacht Council Hearings Committee had upheld the decision of Sligo Hearings Committee in relation to the first named Claimant in the following terms :-

“That the appeal is lost as the appellant did not attend personally as per rule. Decision taken pursuant to Rule 7.3(x);(y).”

The matter came before the Tribunal on two dates for hearing, namely, 25th November 2010 when it was part heard and adjourned to the 19th January 2011. Mr. Conor Sally Solicitor appeared for the Claimants and Mr. Gareth McDermott, Solicitor appeared on behalf of the Respondents.

Decision of Tribunal 19th January 2011

The Tribunal made a final decision in the matter on the 19th January 2011 namely as follows (it should be observed that certain interim decisions were made by the Tribunal throughout the Hearings however these are now superfluous owing to the eventual outcome):

TRIBUNAL DECISION AND STATEMENT OF REASONS

The Tribunal posed the following questions to the parties.

1. Was Rule 7.3 (x) and (y) T.O. correctly applied by Connacht Council?
2. Were proper procedures followed by Connacht Council?
3. Was there a conflict of interest on behalf of any Connacht Council member or unfairness in the decision reached by them?
4. What are the rules regarding the requesting of an oral hearing and how this relates to 7.3(y) T.O. In other words was the claimant legally obliged to be in attendance at the oral hearing before Connacht Council?

Having heard the submissions of both parties and having regard to the evidence called by both parties this Tribunal finds as follows

Question 2 was answered firstly i.e. were proper procedures followed by Connacht Council.

Mr. John Prenty (Secretary of Connacht Council) admitted in his evidence, backed up by minutes of the hearing, that prior to the commencement of the Hearing before Connacht Council Hearings Committee he informed the Hearings Committee that no transfer was granted to the first named Claimant from Galway back to Mayo. The fact that such a discussion took place before any evidence was heard by the Hearings Committee creates the possibility that Connacht Hearings Committee might have been influenced by Mr. Prenty in advance of the hearing commencing. Furthermore, Mr. Prenty disqualified himself from attending the hearing (quite rightly in the opinion of this Tribunal) as he had furnished information to Sligo CCC when they were investigating the case. However Mr Prenty gave his file on the matter to the Connacht Hearings Committee before he excused himself from the meeting. Mr Prenty had no way of knowing what evidence Sligo Hearings Committee intended to adduce at the Hearing before Connacht Council and it could be perceived that he had an unintentional influence in the outcome of the Appeal.

We can now answer **Question No. 1** namely did Connacht Council correctly apply Rule 7.3 (x) and (y).T.O. The answer to this must be looked at in the context of whether an

oral hearing was requested or not. 7.3(y) T.O.involves the imposition of a sanction for an infraction namely failing to attend at a hearing where you have sought an oral hearing. It was common ground between the parties at this hearing that no oral hearing was sought in writing and therefore Connacht Hearings Committee acted ultra vires in applying the sanction, where on the facts no breach of rule occurred. The Claimant is not bound by the decision of his Club Secretary to attend the oral hearing. The decision of Connacht Council to dismiss the first named Claimant's appeal for failure to attend the oral hearing under Rule 7.3(x) and (y) is quashed and the matter is referred back to Connacht Council for re-hearing.

As a result no answers have been given to Questions 3 and 4.

The Tribunal would point out that in relation to the re-hearing some points need to be observed. The first named Claimant has pleaded that he did not seek an oral hearing and therefore Connacht Council can deal with the matter on the paperwork before them. In repossessing the matter Connacht Council must have regard to the minutes of the meeting on the 11th of November 2010. Furthermore Mr. Barrett's Appeal is limited to those grounds raised in his letter of Appeal dated the 5th of October 2010.

The outcome of the remaining Claimants request for Arbitration will depend on Mr. Barrett's appeal before Connacht Council and the hearing in relation to the remaining Claimants is adjourned pending the outcome of Mr. Barrett's appeal.

At the Bush Hotel, Carrick-on-Shannon, County Leitrim
19th day of January 2011

Signed:

David Nohilly

Dr Michael Loftus

Michael Needham

Settlement Terms

Following the Tribunal's decision, the parties ultimately resolved the matter between themselves, which of course is a credit to all concerned. Those, terms of settlement having now superseded the Tribunal's decision and having being approved by both the Claimants and Respondents and submitted to the Secretary of the Disputes Resolution Authority, are accordingly endorsed into this Decision for the record, as follows (see over):

“It is hereby agreed between the parties as follows:

1. The First, Second and Third named claimants shall withdraw their claim to the DRA to have their suspensions rescinded, subject to the Respondents agreeing to recommend, without delay, their cases to Central Council and the Central Appeals Committee for reinstatement in accordance with Rial 7.12 T.O 2010, given the exceptional circumstances of their cases.

2. The claimants acknowledge, and it is agreed by the respondents, that according to official CLG records the first named claimant, is registered with Turloch Mór CLG, Gallaimh, and he did not properly transfer to Cumann Gaeil An Lathair CLG. Should he wish to transfer to another club he will be required to apply for a transfer in accordance with the Official Guide.

3. The Respondents acknowledge that Cumman Gaeil An Lathair CLG are the 2010 Sligo Senior Hurling Champions. It is agreed that the penalty imposed under Rial 6.9 T.O 2010 shall be amended from “Forfeiture of Game without award of game to opposing team” to “ €50 fine” , given the circumstances of this case.

4. In the interest of ensuring that Connacht are represented in the All-Ireland Series of the Junior Hurling Championship, Cumman Gaeil An Lathair CLG agree to withdraw from the Connacht Junior Hurling Championship.

5. It is agreed that the Claimants and Respondents shall each pay half of the DRA expenses.

6. It is agreed that each party shall bear their own costs.”

In accordance with 11.6 of the DRA Code This Tribunal hereby ratifies this agreement which shall have the same force as if it were a decision of this Tribunal.

22nd January, 2011

David Nohilly

Dr Michael Loftus

Michael Needham