

**DISPUTES RESOLUTION AUTHORITY**  
**Record No. 23/2005**

**BETWEEN/**

**GERARD MALONEY and JOE RYAN**  
**(as nominees of Cumann Sean Mac Diarmada Creachmhaoil)**

Claimants

- and -

**FRANK BURKE and BERNARD O'CONNOR**  
**(as nominees of GAC Coisde Conntae na Gaillimhe)**

Respondents

**DECISION**

**BACKGROUND:**

1. On the 30<sup>th</sup> April, 2005, Mr. Alan Callanan a playing member of the Claimant Club was sent off in a Minor Hurling Championship match against Kiltormer by the Match Referee, who issued Mr. Callanan with a straight red card.
2. On the 24<sup>th</sup> July, 2005, the Claimant Club was fixed to play in a Minor Hurling Championship match against Turloch Mor. Prior to the start of the match while the team was warming up on the pitch the match Referee was advised by Turloch Mor officials that they would be objecting to Mr. Callanan playing in the match.
3. Officials from the Claimant Club had sought clarification from officials of Coisde Conntae na Gaillimhe, the Hurling Board Secretary and the Hurling Board Chairman as to whether Mr. Callanan was eligible to play or not. An Enquiry had initially been made from the Hurling Board Secretary on the 6<sup>th</sup> May, 2005, and once again to the Hurling Board Chairman immediately before the start of the match on the 24<sup>th</sup> July, 2005. On this latter occasion the Hurling Board Chairman indicated that he would consult with the Hurling Board Secretary and revert.

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4. The Claimant Club state that they were satisfied from their initial Enquiry on the 6<sup>th</sup> May, 2005, that Mr. Callanan was eligible to play. Accordingly, notwithstanding the fact that the Hurling Board Chairman had not reverted to them with clarification prior to the start of the match, the Claimant Club proceeded to allow Mr. Callanan to play in the match.
5. Cumann Sean Mac Diarmada defeated Turloch Mor.
6. Mr. Callanan had been sent off in the match on the 30<sup>th</sup> April, 2005 against Kiltormer for a Category C offence under Rule 138 (1)(c) of An Treorai Ofigiuil 2003. The penalty for a Category C offence is provided for in Rule 138 (2) (ii).  
“A player ordered off the field for a Category C offence shall stand suspended for the minimum of 4 weeks at the level at which the offence is committed.....  
The penalty shall include the next game in the competition in which the suspension was incurred, even if the next game falls outside the suspension period”.
7. At a meeting of Coisde Riarachain na gCluichi CLG Coisde Conntae na Gaillimhe on the 8<sup>th</sup> August, 2005, Mr. Callanan was given a further 24 week suspension operative from the 24<sup>th</sup> July, 2005. No penalty was imposed against the Claimant at this meeting. The decision with regard to the imposition of a penalty against the Claimant was deferred to the next meeting.
8. The next meeting was held on the 19<sup>th</sup> August, 2005. The decision of the Respondent was that the Claimant forfeit the points for the Minor Hurling Championship game against Turloch Mor in accordance with Rule 137 An Treorai Ofigiuil. The Claimant appealed against this decision to Comhairle Cuige Connaught. This Appeal which was heard on the 21<sup>st</sup> September, 2005, was rejected and the Claimant received a formal notice in that regard on the 5<sup>th</sup> October, 2005.
9. **THE DISPUTE:**

The Claimants have submitted their request for Arbitration to the DRA on the basis that

- a) they had made every effort to clarify Mr. Callanan's eligibility and they were led to believe that he was eligible to play in the Minor Hurling Championship game against Turloch Mor.
- b) They were not allowed to present their case fully at the meeting of Coisde Riarachain na gCluichi on the 8<sup>th</sup> August, 2005, and they were not represented at the subsequent meeting of Coisde Riarachain na gCluichi on the 19<sup>th</sup> August, 2005.
- c) They had not received any formal notification from Coisde Riarachain na gCluichi in respect of Mr. Callanan's initial suspension in accordance with Rule 142(g).
- d) That Rule 152(e) and (h) should have applied rather than Rule 137 as set out in the letter dated 2<sup>nd</sup> August, 2005, from Coisde Riarachain na gCluichi to the Claimants.

10. **THE PROCEEDINGS:**

The request for Arbitration dated the 18<sup>th</sup> October, 2005 was received by the Secretary of the DRA on the 20<sup>th</sup> October, 2005. The Respondents raised a preliminary issue at the outset of this preliminary hearing in relation to the delay on the part of the Claimants in submitting their request. The preliminary ruling was to confirm the extension of time by the Secretary of the DRA pursuant to Section 2.2 of the Disputes Resolution Code. The reasons for this decision have been set out in a preliminary ruling.

11. By letter dated the 22<sup>nd</sup> October, 2005, the Respondents were invited by the Secretary of the DRA to submit their response to the Claimants' claim within seven days of the 20<sup>th</sup> October, 2005. The response was in fact received by the Secretary of the DRA on the 28<sup>th</sup> October, 2005. There being no objection from the Claimants the decision of the Secretary of the DRA to extend the time limit pursuant to Section 3 of the Disputes Resolution Code was confirmed.

12. The hearing scheduled for Wednesday, the 2<sup>nd</sup> November, 2005, was a Preliminary Hearing. Both parties indicated that they were in fact ready to proceed to deal with the substantive issues and accordingly in accordance with section 7 of the Disputes Resolution Code, a full Plenary Hearing commenced.
13. **SUBMISSIONS:** “They had made every effort to clarify the player’s eligibility. They were led to believe that he was eligible to play in the Minor Hurling Championship game against Turloc Mor”.

Both representatives of the Claimants that gave evidence stated that they were unsure as to the terms of the suspension which Mr. Callanan received as a result of his having been sent off on the 30<sup>th</sup> April, 2005, for a Category C offence.

- Evidence was given of two specific instances in which clarification was sought from the Hurling Board Secretary and Chairman. On the second occasion, Sunday the 24<sup>th</sup> July, 2005, clarification was sought immediately before the start of a Minor Hurling Championship match against Turloch Mor. This clarification was sought by way of a telephone call to the Hurling Board Chairman who indicated that he would have to consult with the Hurling Board Secretary and revert. Notwithstanding the fact that this clarification had not been received prior to the start of the match, Mr. Callanan proceeded to play.
- The Claimants state that they had been led to believe previously that Mr. Callanan had only received a four week suspension and did not incur suspension in respect of “the next match in the competition”.
- In addition, they also relied upon the Report of Coisde Riarachain na gCluichi where at paragraph 26 Mr. Callanan’s suspension was recited as follows:-  
“..... four weeks fe Riail 138(2)(ii) from date of game, 23<sup>rd</sup> April, 2005.” By comparison the recitals at paragraphs 12 and 13 respectively for Category C offences also were as follows:-

“..... four weeks plus a game fe Riail 138 from date of game.....”.

14. In reply the Respondents

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- Disputed that the Hurling Board Secretary and/or Chairman misled the Claimants and
- Submitted that the only person from whom such clarification should be sought is the Secretary of Coisde Riarachain na gCluichi and
- Submitted that the onus is on the Claimants to be familiar with the Rules and their application. In this regard, it was submitted that at the Hurling Board Meeting of the 4<sup>th</sup> August, 2005, which was attended by delegates from the Claimant Club, Rule 138(2) (ii) was explained to the delegates as most suspensions were under this Rule. The Minutes of this meeting were adopted in the normal manner.

15. The Tribunal has noted that neither the Hurling Board Chairman or Secretary were asked to attend by either party to give evidence. Accordingly, much of the evidence given by both parties in this regard is in fact heresay, and as such should not in any way influence the decision of the Tribunal. The Tribunal accepts the submission of the Respondents that it is incumbent upon the Claimant to be familiar with the Rules and particularly those with such common application. Given that delegates from the Claimant Club were present at the meeting of the Hurling Board of the 4<sup>th</sup> August, the Claimants knew or ought to have known the consequences of a sending off under Rule 1382 II. It is indeed however unfortunate that the Report of Coisde Riarachain na gCluichi was somewhat inconsistent in its recording of the Rule 138 suspensions. However the Rule as set out in the Rule Book is quite clear and unambiguous vis a vis the sanction to be imposed and a simple reference to the Rule Book would have clarified the matter. It is further this Tribunal's Opinion that notwithstanding the absence of evidence from the Hurling Board Secretary and Chairman that it would not in any event be acceptable for the Claimants to rely upon their opinion particularly so given the unambiguous wording of the Rule vis a vis the sanction to be imposed.

16. "were not allowed to present their case fully at the Meeting of Coisde Riarachain na gCluichi on the 8<sup>th</sup> of August, 2005 and were not represented at the Meeting of Coisde Riarachain na gCluichi on the 19<sup>th</sup> of August, 2005". The issue that had to be considered by both Coisde Riarachain na gCluichi and Comhairle Connacht was a very net issue.

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- Was Mr. Callanan eligible to play in the Minor Hurling Championship Match against Turloch Mor on the 24<sup>th</sup> July, 2005? and
  - Did he actually play in that Match? These were the only relevant questions. Then it is evident from a review of the minutes of the Meeting of Coisde Riarchain na gCluichi of the 8<sup>th</sup> of August, 2005 that the Claimants made the following points to the Meeting.
  - They received no official Notification of Mr. Callanan’s suspension from Coisde Riarchain na gCluichi, and
  - They were told by the Secretary of the Hurling Board that Mr. Callanan’s suspension was for four weeks only, and that because Mr. Callanan missed **two** games at other levels that in their opinion he was eligible to play in the Minor Hurling Championship game against Turloch Mor.
17. The Tribunal is not satisfied therefore from the evidence put before it that the Claimants were denied fair procedures in the adjudication of the matter by both Coisde Riarchain na gCluichi and Comhairle Connaught.
18. **“They had not received any notification from Coisde Riarachain na gCluichi in respect of Mr. Callanan’s initial suspension which is required in accordance with Rule 142 (G)” It was accepted that no such notification was furnished.**
19. The Tribunal accepts the respondents’ submission that no such notification is required to be given under Rule 142 (G) in respect of a category C offence as it is one of the specific exceptions listed at Rule 142 (A) (1).
20. “That Rule 152 E and H should have applied rather than Rule 137 as set out in the letter dated the 2<sup>nd</sup> of August, 2005 from Coisde Riarachain na gCluichi to the Claimants”. The Claimants submitted that Mr. Callanan and the Club were requested to attend the Meeting of Coisde Riarachain no gCluichi on the 8<sup>th</sup> of August, 2005 under Rule 137 as evidenced by the letter dated the 2<sup>nd</sup> of August, 2005 in that regard. It is the claimants’ submission that the investigation procedures pursuant to Rule 152 should have been invoked. Then if a prima-facie case was established that the  
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procedures under Rule 142 should then have been invoked as is required by Rule 152 (H).

21. The Respondents admitted that it would not have been appropriate to invoke Rule 152. It was their submission that there was nothing to investigate. They stated that they were in possession of the Referees' Report and that Mr. Callanan was on the team list. The only matter to be determined was if in fact Mr. Callanan played in the match. Once this was accepted by the Claimants then it fell to the Respondents' to impose the penalties pursuant to the Rules. In this instance the appropriate Rule was Rule 137. The Respondents stated in evidence that the request to attend the Meeting was in the interest of natural justice and fair procedures. It was further stated that at the Meeting of the 8<sup>th</sup> of August, 2005 Mr. Callanan received an additional suspension under Rule 137 but that the decision on the penalty to be imposed on the Team was deferred until the next Meeting. The Minutes of the Meeting are consistent with this submission. The next Meeting was held on the 19<sup>th</sup> of August, 2005. The Claimants were not in attendance at this Meeting and neither were they invited to attend. The Respondents stated that they did not invite the Claimants as they had already heard the Claimants case at the Meeting on the 8<sup>th</sup> of August, 2005. The Meeting on the 19<sup>th</sup> of August, 2005 merely had to discuss the Application of Rule 137 as against the Team.
  
22. Having considered the submissions of both parties and the Minutes of the Meeting of Coisde Riarachain na gCluichi of the 8<sup>th</sup> of August, 2005 the Tribunal accepts Respondents Submission that it would have been inappropriate to invoke the investigation procedures as set out in Rule 152. In addition it is the Tribunals view that the procedures set out at Rule 142 were in fact complied with in that
  - The Claimants were given in excess of three days notice of the Meeting. The letter was dated the 2<sup>nd</sup> of August, 2005 and the Meeting took place on the 8<sup>th</sup> of August, 2005.
  - It is evident from the letter that the Meeting is in respect of an offence under Rule 137 which is for playing while under suspension.
  - Upon receipt of this Notice it was open to the Claimants to make written representations or to seek an oral hearing. Whilst the Tribunal is satisfied that"Implementing the Disputes Resolution Code of the GAA"

the procedures were carried out it would in fact have been preferable if the letter of the 2<sup>nd</sup> of August, 2005 had more clearly indicated to the Claimants that the letter was a notice in writing pursuant to Rule 142 (A).

### **CONCLUSION**

23. For the reasons set out above the Claim is refused.

Dated this 7th day of November 2005

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Brian Rennick

Chairman

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Niall Cunningham

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Dr. Mick Loftus