

In the matter of the Arbitration Act 1954 and 1980
and the Disputes Resolution Code

Gary Mullins (Claimant)

and

Eamon Kelly (for and on behalf of the North American County Board) (Respondent)

Central Council as Notice Party

We the undersigned find as follows:-

1. Background

On the 3rd of September 2006 Wolfe Tones GAA Club, Chicago played Aidan McAnespies GFC, Boston in the Senior Football Final of the North American County Board (“NACB”) Playoffs. During the course of the game the Claimant was sent off for striking an opponent with the fist. He arrived back in Ireland on the 6th of September 2006. On the 28th of September 2006 Wolfe Tones GAA Club, Chicago were notified by the Rúnaí of the NACB that the Claimant was sent off for striking an opponent and that he had been suspended for twelve weeks from the date of the game in accordance with Rule 142 (1) (c) of the Official Guide 2006. Evidence was given by the Rúnaí of the NACB that this decision had been taken by the NACB Games Administration and Disciplinary Committee.

The notification went on to state that the “NACB Hearing Committee extended the minimum penalty of four weeks to twelve weeks based on information that the recipient of the assault received a serious jaw injury”.

Finally the notification went on to state to follows:

“Please advise Gary Mullins of this suspension and his right to have the suspension reviewed by an independent NACB hearing committee under Official Guide Rule 142 (2) (ii)”.

There was some dispute as to when the actual decision to suspend the Claimant took place but on hearing evidence from the Rúnaí of the NACB, the Tribunal was satisfied that this decision took place on the 27th of September 2006.

Following an exchange of email correspondence between the Claimant (and representatives on behalf of the Claimant) and the Rúnaí of NACB the Claimant submitted a request for arbitration to the Disputes Resolution Authority on the 5th of October 2006.

There was an interim hearing of this Tribunal and the Tribunal awarded in the manner set out in the order of the Tribunal issued on the 6th of October.

2. The Tribunal notes that at the interim hearing Counsel for both parties accepted the jurisdiction of the Tribunal to deal with the matter on an interim basis.
- 2.1 The Respondent's counsel submitted that by virtue of minutes of a Central Council Management Committee meeting dated 2nd/3rd June 2006 produced to the Tribunal that the DRA had no jurisdiction to hear this matter. Counsel for the Claimant argued that insufficient evidence of deviation as per Rule 94, Official Guide 2006, had been adduced.
- 2.2 The Minutes stated that with regard to "the right to bring an appeal to the DRA North American Board, Australia had an agreement that appeals would not come to Páirc an Chrócaigh"
- 2.3 The Tribunal rejected the Respondent's argument on the basis that the production of the minutes from the Management Committee was not sufficient to oust the jurisdiction of the DRA.
3. Counsel for the Respondent submitted that the DRA did not have jurisdiction as all avenues of appeal had not been exhausted.
- 3.1 He referred to Bye-Law 10 of the North American County Board which states
"Appeals against decisions of a Divisional Board will be heard by the NACB Games Administration and Disciplinary Committee".
- 3.2 The Tribunal holds that as the matter before it is not a decision of a Divisional Board rather a decision of the NACB Games Administration and Disciplinary Committee, this Bye-Law does not apply.
4. Counsel for the Respondent submitted that correspondence from the Claimant recognised an avenue of appeal was open to him, thus disallowing recourse to the Tribunal. The Tribunal was of the view that to take such an interpretation would be overly onerous on a lay Claimant.
5. Counsel for the Claimant submitted that correspondence from the Rúnaí of NACB did not countenance an appeals process available to the Claimant and thus the NACB was now estopped from arguing the appeals process had not been exhausted. The Tribunal similarly felt that this would be overly onerous construction to put on the Rúnaí's correspondence.
6. Counsel for the Claimant also argued that the question of the DRA's jurisdiction had been cured by the attendance of the NACB at the interim hearing and the acceptance of the interim order. The Tribunal rejected this argument.
7. Counsel for the Respondent referred to Bye-Law 20 of the said Bye-Laws, which sets out the disciplinary procedures which operate during the NACB play off weekend. It was accepted by all parties that the matter before the DRA originated during the course of an NACB play off weekend. Referring to Bye-Law 20(2)(a) Counsel for the Respondent submitted that this afforded the Claimant the opportunity to appeal of which he did not avail and therefore the DRA did not have jurisdiction to deal with the matter.

- 7.1 Counsel for the Claimant argued in relation to Bye-Law 20, in particular Bye-Law 20(2) that the Tribunal should adopt a “common sense approach” and that the Bye Law contravened the Official Guide. The Tribunal is not convinced of this argument.
- 7.2 The Tribunal held on the submissions before it that the Claimant did not exhaust all avenues of appeal and that it could not deal with the matter any further.
- 7.3 The Tribunal however noted that the position of the NACB is that the appeals process is still open to the Claimant, and noted their statement that it would be expeditiously implemented.

8. **Costs**

The Claimant shall bear the Respondent’s costs and the DRA’s expenses in relation to the matter save for the Respondent’s costs in relation to the interim hearing in respect of which no order is made on the basis of the arguments adduced at the hearings.

Jim Murphy (Chairman)

Declan Hallissey

Tom Barry

13 October 2006
Castleknock Hotel