

**DISPUTES RESOLUTION AUTHORITY**  
**An Coras Eadrana**  
IN THE MATTER OF THE ARBITRATION ACTS, 1954 AND 1980

**Record No. DRA/31AND32/2006**

**Between:**

**KIERAN S DELANY (AS NOMINEE ON BEHALF OF CAMROSSS  
GAA CLUB)**

**Claimant**

**-and-**

**NIALL HANDY AND RICHARD MILLER (AS NOMINEES  
ON BEHALF OF GAC LAOIS CLG)  
AGUS LIAM O'NEILL (MAR IONADAI AR SON COISTE BAINISTI  
LAIGHEAN CLG)**

**Respondents**

**And Between:**

**GREAGOIR O CUIDITHE**

**Claimant**

**-and-**

**NIALL HANDY AND RICHARD MILLER (AS NOMINEES  
ON BEHALF OF GAC LAOIS CLG)  
AGUS LIAM O'NEILL (MAR IONADAI AR SON COISTE BAINISTI  
LAIGHEAN CLG)**

**Respondents**

**DECISION AND AWARD**

**Background**

1. This claim arises out of a decision of Laois GAC (the first Respondent) to impose a €5,000 fine on Camrosss Club and disqualify the team that participated in the game of the 17<sup>th</sup> September 2006, from Laois Senior Hurling Championships 2007 and not to accept an affiliation fee from Camrosss Club for Laois Senior Hurling Championship 2007. Furthermore it it was also agreed that all adult games between the two clubs for the next

five years be played at a neutral venue. These sanctions were imposed in accordance with RIAIL 144, T.O. 2006. It was also decided to recommend to Coiste Bainisti Laoise that a mediation mechanism be set up between both clubs in order to sort their differences. Furthermore it was on appeal by the second named Claimant herein who is a member of the first named Claimant that at a meeting in the Heritage Hotel on the 25<sup>th</sup> September 2006 the first named Respondents herein indicated or directed to suspend the second named Claimant, namely Greagoir O Cuidithe for a period of 96 weeks in accordance with RIAIL 142(c) T.O. 2006.

2. Both the first named Claimant and the second named Claimant appealed such decisions of the first named Respondent to the second named Respondent, i.e. Coiste Bainisti Laighean CLG and such appeal was heard at a meeting of the second named Respondent on the 12<sup>th</sup> October, 2006. The result of such appeal was as follows:-

A(1) Cumann Camross CLG v. Coisde Co. Laoise CLG (NB: This appeal was against the decision not to allow Camross CLG affiliate a Senior Hurling Team for the Laoise SHC in 2007). Decision - appeal upheld as Coisde Co. Laoise CLG was deemed to have misapplied Riail 144 T.O.;

A(2) Cumann Camross CLG v. Coisde Co. Laois CLG. (NB: This appeal was against the imposition of a fine of €5,000 on Cumann Camross). Decision - Appeal lost in accordance with Riail 155 (h) T.O.

(B) Greagoir O Cuidithe v. Coisde Co. Laoise CLG - Decision - appeal lost in accordance with Riail 155 (h) T.O.

3. Both claimants submitted claims in writing to the Secretary of the Disputes Resolution Authority (The DRA) on or about the 18<sup>th</sup> October 2006 and 20<sup>th</sup>

October 2006 respectively. The hearing came on before the Tribunal in the Park Hotel in Mullingar on the 9<sup>th</sup> day of November 2006, the Tribunal comprising of Damien Colgan Chairman, Declan O'Flaherty and Albert Fallon.

4. These hearings and appeals arose out of an incident which took place towards the latter end of a Senior Hurling Championship quarter final in the County of Laois between Castletown and Camross, the first named Applicant, on the 17<sup>th</sup> September 2006. The report of the referee indicated that towards the latter end of that game an incident took place at the rear of the Camross goals. It would appear that as a result of what took place, and the referee having spoken to his linesmen, he decided that Cyril Cuddy of Castletown and Mr Greg Cuddy of Camross (the second named applicant) that both players received a straight red card for striking with their fists. It then seemed to be a situation where the second named applicant struck Cyril Cuddy after receiving the red card. What happened afterwards was contained and set out in the referee's report and this incident was also recorded on video which was available to all the parties concerned. By letters dated the 20<sup>th</sup> September 2006 from CLG Laois (the first named Respondent herein) both Camross GAA and the Gregoir O Cuidithe were invited to attend a hearing at the Heritage Hotel at 7.35pm and 7.45pm respectively to answer the incidents as set out in the referee's report. Such a report was attached to both letters to the various parties. It would appear that the minutes of that meeting (dated 25<sup>th</sup> September 2006) were available to the Tribunal for their inspection and it would seem that as a result of that a number of matters have arisen: that in keeping with what can be best described as fair procedures between the parties, it is accepted from the various parties during the course of this hearing that both parties were given a notice of what was alleged against them, both parties were given an opportunity to defend such allegations and that there were video viewing

facilities available for both parties if they wished to rely upon same, but neither did. The subsequent fines and findings were imposed on both applicants and both applicants appealed to the second named Respondents, i.e Coiste Bainisti Laighean CLG.

That matter came on for hearing on the 12<sup>th</sup> October 2006 and the appeals were allowed in respect of the first matter and lost in accordance with the appropriate rules in respect of two other matters. All three matters were then subsequently referred to the DRA.

### **The Claim**

5. In submitting their request for arbitration to the Secretary of the DRA, the first named claimant alleged:
  - (i) that rule 144 was misappropriated by Laois County Board in relation to the affiliation application. This was upheld by the Leinster Council already, it is our additional belief however that Laois County Board went beyond the terms of reference to this rule.
  - (ii) They relied upon a letter of their Solicitor, J G Moloney Solicitors dated 12<sup>th</sup> October 2006, a copy of which was furnished to the Tribunal.
  - (iii) Legal precedent and fairness: “The law will demand a level of fair procedure which is sufficient in all circumstances to ensure justice for the players or members affected by the decision”. We would suggest that this ruling as members include Camross GAA Club which Gregory Cuddy also covered as a player.

- (iv) The lack of adequate provisions for the health and safety of Gregory Cuddy – particularly within the hands of Laois County Board.
  - (v) The term “this team” – it is noted that this is described as too vague and “on the night of the Leinster Council Appeal, Mr Handy communicated verbally that this meant fifteen individuals”. It was also contended that the level of punishment was too harsh for the offences committed on the field of play.
6. In submitting the request for arbitration to the Secretary of the DRA the second named claimant alleges:
- (i) rule 142 – “the sentence” here (96 weeks) does not fit the crime (i.e. the striking of one blow during the whole of the altercation/melee;
  - (ii) legal precedent and fairness – the law will demand a level of fair procedure which is sufficient in all the circumstances to ensure justice for the player or members affected by the decision;
  - (iii) Legal advice – the Club’s Solicitors letter is clear and concise. Again this is with reference to the letter of J G Moloney Solicitors dated 12<sup>th</sup> October 2006;
  - (iv) The total lack of adequate provisions for his health and safety specifically when he was in the hands of Laois County Board officials.

### **Relevant Principles to be Applied**

7. Under rule 158 of the GAA Official Guide of 2006 the position regarding arbitration is dealt with and such tribunals as held by the Disputes Resolution Authority.
8. R 158(i) *“In the event of any dispute or difference between any member or unit of the Association with any other member or unit of the Association, as to the legality of any decision made or procedure used by any unit of the Association in pursuance of the Rules and Bye-Laws of the Association, which cannot be settled by amicable means within the Rules of the Association, such dispute may be referred by either party to Arbitration under the Disputes Resolution Code annexed to these Rules (Appendix 3), as initially by Congress and from time to time amended by the Disputes Resolution Authority with the approval of Central Council.*
  - (ii) *Such Dispute Resolution shall be conducted in accordance with that Code and the Arbitration Acts, 1954 and 1980 or any statutory medication or re-enactment thereof. The Rules of the Association and the Laws of Ireland shall govern such Disputes Resolution.*
9. In order for any claimant to proceed with their application before the Disputes Resolution Authority they must demonstrate to the Tribunal that there was some illegality in the hearings before such other Units of the Association or that there must have been some unfairness of procedures between the parties when dealing with such disputes.
10. Consequent upon the common law rules of natural justice, a body is required to comply with the requirements of fairness in the exercise of decision making process. This principle is restated and adumbrated in many forms in a vast number of decisions. While the principle recognizes

a guarantee of procedural fairness the limitation of its applications must be recognized. In the case of *The State (Murphy) v. William Kilt* [1984] IR 465 Barron J. in his judgment indicated:

*“In my view, the essentials of a valid hearing in the present case require at the least:*

- (i) evidence from which it would be unfair to hold in favour of the allegation;*
- (ii) notification to the prosecutor of the nature of such evidence is sufficient to enable him to prepare a defence;*
- (iii) time for the prosecutor to prepare a defence;*
- (iv) an opportunity to make that defence.*

*Such a hearing should have been held and should have been seen to have been held. Such hearing did not have to be of a very formal nature, provided that the minimum requirements to which I have referred were met”.*

11. Similarly in the case before his Honour Judge McMahon at Trim Circuit Court in the case of *Barry and Rogers v. Ginnity & Ors* (Trim Circuit Court, 13<sup>th</sup> August 2005):-

*“The law will demand the level of fair procedures which is sufficient in all the circumstances to ensure justice for the players or members affected by the decision. The more serious the consequences the higher the standard that will be required”.*

12. This Tribunal which sat at Mullingar on the 9<sup>th</sup> November 2006 had first heard submissions from Mr John O’Donovan, Solicitor on behalf of the first and second named claimants (all parties agreeing that both applications should be heard at the same time given the fact that both were so intrinsically linked). Such submissions were of both an oral and written

nature. Furthermore in reply submissions were made on behalf of the first named Respondent, GAC Laois CLG by Mr Eamon Comiskey Solicitor and furthermore by Mr Liam O'Neill on behalf of the second named Respondent, Coiste Bainisti Laighean CLG. It was accepted and indeed proved to the satisfaction of the Tribunal that the first and second named claimants had been written to by the first named Responding inviting them to attend a meeting and attached to that correspondence was the referee's report. Furthermore video viewing facilities were to be availed of in the night in question and were available to both the first and second named claimants and indeed from the notes of the meeting on the night of the 25th September 2006, it is clear throughout that all stages the committee offered both Camross and various other persons who appeared, including the second named claimant herein, an opportunity to call witnesses if they wished to defend the case.

13. In respect of the findings of the first named Respondent, it is clear that with reference to the various different rules (i.e. rule 144) that there is jurisdiction for the first named Respondent to impose the appropriate fines and suspensions upon the first and second named claimants herein. It is of note that rule 142 deals with suspensions concerning misconduct on the field and quite clearly the second named claimant comes within the suspension and under rule 142(5) it indicates that no suspension shall exceed 96 weeks. The Committee are quite entitled to arrive at this decision, and did so with reference to the referee's report together with such other evidence as was presented to them on the night in question including such evidence as the second named claimant wished to put before the committee.
14. In rule 144 it is noted that *"County Committees shall within their respective jurisdiction have the power to investigate irregularities and to suspend, warn, fine, disqualify or expel councils, committees, clubs, teams and members for breaches of*



*the rules of the Association or any bye-law made thereunder for any breach of discipline, considered to have discredited the Association, or for breaches of the Association Guidelines or directives”.*

15. In respect of the appeal by the first and second claimants as against Coiste Bainisti Laighean CLG, again on the night of the 9<sup>th</sup> November the Tribunal heard evidence including both oral and written submissions from the various parties concerning the meeting of the 12<sup>th</sup> October 2006 and it is quite clear that in the course of that meeting, that both the first and second named claimants had an extensive hearing before the Appeals Committee, and it is accepted by all parties that that appeal went on a lot longer than was first anticipated but as a result of that appeal it is quite clear from the fact that Leinster Council has a very limited function in the appeal process and that they are only allowed to decide whether the lower body either infringed or misapplied rules when reaching their decision. It is noted of course that in the case of one of the appeals from Camross, the Appeals Committee that Laois County Board has misapplied a rule and therefore that appeal was upheld.
16. In the case of the two other appeals, the Appeals Committee found that Laois County Board had not infringed or misapplied a rule, so consequently both of those appeals were lost.

## **Findings**

17. Having considered the written submissions on behalf of all the parties and the oral submissions provided by the claimants and the respondents before

this Tribunal, it is the unanimous view of the Tribunal that the procedures that were adopted by the first and second named Respondent in dealing with the alleged matters giving rise to the within claim were not in breach of the GAA Rules and furthermore were in keeping within the Guidelines as best can be with regard to fairness of procedures. It is quite clear that the claimants were notified of the incident, the referee's report was attached to such correspondence. Furthermore, it is quite clear that the claimants had an opportunity to voice their case and present defences to both Laois County Board and the Leinster Council, and that in dealing with these issues that the members of both the Laois Committee and the Leinster Appeals Committee dealt with both claimants fairly and responsibly. Therefore it is the unanimous decision of this Tribunal that the claim by the claimants are without foundation and that the fines and suspensions stand in their entirety.

18. It is of note and hopefully of assistance to both claimants herein that Laois County Board together with the Leinster Council are endeavouring to facilitate mediation between both Camross and Castletown, and it is hoped that this will lead to a better relationship between Camross and Castletown in the future.

### **Costs**

19. The judgment of the Tribunal was delivered at the Park Hotel, Mullingar on the 12<sup>th</sup> December, 2006. The issue of costs then arose to be decided by the Tribunal pursuant to Rule 11.2 of the Disputes Resolution Code. As a result of an invitation by the Tribunal to the Laois County Board and the Leinster Council both declined costs save insofar as that the Laois County Board requested the costs of their Solicitor, Mr Eamon Cumiskey. It was decided by the Tribunal that in view of this ruling that Mr Cumiskey was entitled to

such reasonable costs as could be agreed between the parties. However if the parties cannot agree to such reasonable costs then the Tribunal shall measure costs.

20. In respect of the expenses incurred by the Disputes Resolution Authority, such expenses are to be measured by the Secretary of the Disputes Resolution Authority and are to be shared equally between the first and second named claimants herein.

Dated this 12<sup>th</sup> day of December 2006

Signed: Damien Colgan Chairman, Declan O'Flaherty and Albert Fallon