

## **DISPUTE RESOLUTION AUTHORITY**

**RECORD NO. DRA/4/2008**

**IN THE MATTER OF THE ARBITRATION ACTS 1954 – 1998 AND IN THE  
MATTER OF AN ARBITRATION BETWEEN**

**MAIRÉAD NÍ DHÚILL (MAR IONADAÍ AR SON  
COISTE CHONTAE LOCH GARMAN)**

**-V-**

**TREASA NÍ RAGHAILL (MAR IONADAÍ AR SON LÁR CHOISTE CHEANNAIS  
NA GCOMÓRTAISÍ) & SEÁN Ó hUAINE (MAR IONADAÍ AR SON AN LÁR  
CHOISTE ACHOMHAIRC)**

### **BACKGROUND & DECISION**

#### **Background**

1. Due to a dispute between the Cork County Board and the County Footballers and Hurlers, Cork did not field teams to play in the first two rounds of either the National Football League or the National Hurling League in 2008. Efforts were made to resolve the dispute between the Cork County Football and Hurling team panels and Cork County Board. During the course of the efforts to resolve the Cork dispute the Cork senior hurling team were fixed to play Kilkenny in the National Hurling League on the 10<sup>th</sup> February 2008 and Waterford in the National Hurling League on the 17<sup>th</sup> February 2008.
2. The Central Council of the GAA at a meeting of the 26<sup>th</sup> January 2008 agreed that in the event of two games in the hurling or football competitions being awarded in circumstances where a given County could not field a team, the County would be automatically disqualified from the current national league in the code in which the two games were not fulfilled. The details of that decision of Central Council were outlined in a press release issued on the 26<sup>th</sup> January 2008.
3. The Cork dispute was ultimately resolved and at a meeting of the CCCC on the 19<sup>th</sup> February 2008 a decision was made to award the points for rounds one and two of the National Hurling League matches not played by Cork to Kilkenny and Waterford respectively and to allow Cork continue in the National Hurling League. The next round of the National Hurling League took place on the 9<sup>th</sup> March 2008.
4. Wexford were fixed to play Cork in the National Hurling League on the 23<sup>rd</sup> March 2008. Details of this fixture had been emailed to each of the County Secretaries on Monday the 17<sup>th</sup> March 2008. The Secretary of Wexford County Board wrote to Treasa Ní Raghail of the CCCC on the 18<sup>th</sup> March requesting in writing the full and official details of the decision of the CCCC committee regarding Cork not fulfilling their first two league games and requesting details of what rules were applied in reaching this decision. An email from Treasa Ní Raghail of the 19<sup>th</sup> March to

Wexford County Board sought to clarify the position by referring Wexford County Board to press releases issued on the 26<sup>th</sup> January 2008 and 4<sup>th</sup> February 2008. On receipt of the email of the 19<sup>th</sup> March 2008 from Treasa Ní Raghail Wexford County Board lodged a formal appeal to the Central Council Appeals Committee by letter dated 20<sup>th</sup> March 2008.

5. In the claimant's request for arbitration the claimant Wexford County Board sought details of all minutes of meetings held concerning this issue and all correspondence that was entered into between any parties and in particular between the CCCC and Cork. The respondent to the request for arbitration indicated in their response that the relevant documents would be produced. The respondents also requested in their response to the request for arbitration a preliminary hearing to deal with a preliminary issue.
6. The Secretary of the DRA received correspondence from the claimants dated 16<sup>th</sup> April 2008 stating that the documents requested from the respondents in the request for arbitration had not as yet been produced and the Claimants requested an adjournment of the hearing. The Secretary of the DRA received a response from Solicitors on behalf of the respondent dated 18<sup>th</sup> April 2008 outlining the preliminary issues which the respondents wished to have dealt with. In advance of the hearing on the 24<sup>th</sup> April the tribunal decided that a preliminary hearing in the matter would proceed on the 24<sup>th</sup> April 2008 and directed that the parties bring with them such documentation as has been requested by the other side even if such documentation has not been exchanged and even where there is an objection to the exchange of such documentation.

### **HEARING DATED 24<sup>TH</sup> APRIL 2008**

Mr Larry Fenelon Solicitor on behalf of the respondents stated that the preliminary issue to be decided by the tribunal was:- whether the claimant is entitled to have the DRA review the decisions of the respondents in circumstances where:-

- (i). The claimant was not entitled to an appeal to the CAC and/or
- (ii). The claimant was outside the time limits within which to appeal to the CAC and/or
- (iii). The claimant participated fully in national league games, played Cork and did not object, and in circumstances where Cork have played five games and are now out of the competition and/or
- (iv). The National Hurling League is at the final stage of conclusion.

Mr Fenelon submitted that the DRA had a limited function in relation to dealing with appeals from units of the GAA. He submitted that the claimant hadn't a right of an appeal to the CAC or if the claimant had a right to appeal to the CAC they had not appealed in time. He further submitted that the "doctrine of laches" applies. Mr Fenelon referred the tribunal to the DRA decision in the Warwickshire case. In relation to the request for documentation by the claimants Mr Fenelon submitted that the documents requested were general and that more specific details of the documents required by the claimant had been requested from the claimant's Solicitor.

Mr Fergal Logan solicitor on behalf of the claimant stated that documents requested last week weren't produced even though the initial hearing date fixed for this tribunal to hear this case

had been adjourned to allow production of such documents. He stated that the tribunal was a documents driven tribunal and documents should be produced. He stated that the claimant was anxious to proceed and he asked that the matter be stood down and a timeframe set down by the tribunal for the exchange of documents and a further hearing date set in relation to the matter.

The tribunal requested from the claimant a list of the documentation which they required. The respondent confirmed that they had the relevant documentation with them. On examination of the documents the tribunal directed and ordered that the documents be produced to the claimants and a period of time was allowed to the claimants to examine these documents. Mr Logan had submitted on behalf of the claimants that the claimants would not be in a position to respond to the preliminary issue being raised by the respondents without sight of these documents. After examination of the documents as produced to the claimants the tribunal proceeded to hear argument in relation to the preliminary issue raised by the respondents.

### **DECISION OF THE DRA**

A preliminary point is raised by the respondent regarding the right of the applicant to appeal a decision of the CCCC to the CAC. Rule 152C (2) of the official guide provides that an appeal doesn't lie in relation to a decision of any competitions control committee in the course of the commencement, investigation and preparation of disciplinary action. This case does not involve a disciplinary matter and therefore the applicant in this case had a right of appeal to the CAC.

The applicant submits that the decision of the CCCC at issue is the decision to allow Cork continue in the National Hurling League and award points to Kilkenny and Waterford. The applicant submits that they became directly affected by this decision when they were fixed to play Cork in round 5 of the National Hurling League and that they received notification of the fixture on the 17<sup>th</sup> March and forwarded an appeal to the CAC on the 20<sup>th</sup> March 2008 within the relevant three day period.

The respondent has submitted that the applicant wasn't affected by the decision of the CCCC of the 19<sup>th</sup> February 2008 and that the only counties affected by that decision were Cork, Waterford and Kilkenny. In the alternative the respondent submits that even if the applicant was affected by the CCCC decision of the 19<sup>th</sup> February 2008 that it was out of time in appealing that decision to the CAC. The respondent has referred the tribunal to the decision of the DRA in the Warwickshire case, DRA 30/31/32/2005.

The tribunal finds that the claimant was directly affected by the CCCC decision of the 19<sup>th</sup> February to deal with Cork's failure to field in rounds one and two of the National Hurling League by awarding points to Kilkenny and Waterford and imposing no further sanction on Cork. The reason why the claimant is directly affected by the decision of the 19<sup>th</sup> February of the CCCC is that regulations under which the National Hurling League was played and in particular the decision of the Ard Comharile of the 26<sup>th</sup> January 2008 provided for the possible disqualification of Cork and the awarding of points to opposing teams in particular circumstances. The CCCC decision of the 19<sup>th</sup> February 2008 not to disqualify Cork and award points to Kilkenny and Waterford directly affected all the remaining teams in the League including the applicants as they now had to play Cork. The applicants should have appealed to the CAC within three days of the 19<sup>th</sup> February 2008.

The applicant did not appeal to the CAC within the period allowed under Rule and therefore has not exhausted all rights of appeal under the official guide before applying to the DRA. The DRA is bound by its decision in the Warwickshire case and therefore the claimants application for relief is refused. Rule 154D of the official guide applies.

This is the unanimous decision of the tribunal.

Signed: Matt Shaw Chairman, Jarlath Burns, Richella Carpenter B.L.

24<sup>th</sup> April, 2008