

DISPUTES RESOLUTION AUTHORITY

AN CORAS EADRANA

IN THE MATTER OF THE ARBITRATION ACTS 1954 AND 1980

RECORD NO. DRA/5/2007

BETWEEN:/

ROSS O' BRADAIGH

CLAIMANT

-AND-

**CRIOSTOIR O'TUATHAIL (MAR IONADAI AR SON CUMANN LUTHCHLEAS
GAEL BORD CHONTAE UIBH FHAILI)**

RESPONDENT

DECISION AND AWARD

1. Background

Ross O'Bradaigh a 19 year old footballer currently residing in Edenderry, Co. Offaly signed a transfer request in the Offaly County Board standard transfer request form on the 19th December 2006 and this transfer form was presented to the meeting of Offaly County Board on the 9th January 2007. Mr O'Bradaigh wished to transfer to Clara Football Club and the Secretary in Edenderry Football Club in his reply to the transfer request at paragraph 11 of the standard transfer form indicated that approval was not given for the transfer by Edenderry Football Club and the reason stated was "we wish to have player status clarified by the Executive Committee".

2. The transfer request of Ross O'Bradaigh was referred to "An Coiste Bainisti Uibh Fhaili" and the matter was considered by An Coiste Bainisti at a meeting of the 17th January 2007. Evidence was heard by the Tribunal from the applicant for the transfer Ross O'Bradaigh with representatives on his behalf and Edenderry Football Club were also represented and heard at the meeting of An Coiste Bainisti on the 17th January 2007.

3. It was submitted by Ross O'Bradaigh in support of his application for a transfer at the meeting of An Coiste Bainisti on the 17th January 2007 that he had first played championship football at under 12 level for Clara in 1998 and that in accordance with the Official Guide Clara was therefore his "home club". Mr O'Bradaigh therefore contended that he was entitled to transfer from Edenderry to Clara.

4. The Secretary of Offaly County Board Christy Todd decided to obtain clarification from Liam O'Maolmhichil, Ard Stiúrthóir effectively to clarify whether the definition

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of "home club" applicable to Ross O'Bradaigh's situation was the definition that pertained at the time that he played under 12 championship football for Clara in 1998 or the definition of "home club" in the new Official Guide applicable at the time that Ross O'Bradaigh submitted his transfer request to Offaly County Board. After some correspondence Liam O'Maolmhichil wrote to the Secretary of the County Board advising that the decision on the transfer application was a matter for the Coiste Chontae. Mr O'Maolmhichil indicated that his preference was that the most recent version of the Official Guide be used.

5. A meeting of Coiste Bainisti of Offaly County Board held on the 6th February 2007 decided to recommend that the application for the transfer be refused and the adoption of the recommendation of Coiste Bainisti was put to a vote at Offaly County Board on the 6th February 2007 and it would seem that a large majority ratified the Coiste Bainisti recommendation.
6. Ross O'Bradaigh appealed the decision of Offaly County Board to refuse his transfer request to Leinster Council but the matter was ruled out of order in accordance with Rule 152(c) and 152(3) of the Official Guide 2007.
7. The last section of paragraph 14 of the C.L.G. Offaly County Board Byelaws (paragraph 15 in the 2007 version) states as follows.
“Such application shall not be granted unless the player is in permanent residence in the Parish in which his new club is located (Club boundaries and Bye Law No. 17- Parish Rule permitting) or is declaring for his Home Club. If the transfer is granted, he shall be regarded if necessary.”
8. The claimant made an argument in relation to his transfer from Edenderry to Clara was that Clara was his home club as defined in the Official Guide and that therefore in accordance with paragraph 14 of the Offaly County Board B-Laws 2006 edition he was entitled to that transfer. The Offaly County Bye-Laws clearly state that the County Board shall not grant a transfer unless the player is applying to transfer to a new club (where he resides or works) or to his home club. Offaly County Board in response claimed that their Bye-Laws placed no obligation on them to grant a transfer and that they retained a discretion to grant or refuse a transfer even in circumstances where the County Board would have been entitled to grant the transfer if the player was transferring to a new club or home club as defined under the rules. Legal submissions were received from the Respondent. Evidence was heard from both the Claimant and Respondent and the Claimant gave evidence to support his claim that he played under 12 championship football for Clara in 1998 and further evidence was given on behalf of the Claimant that Offaly County Board had illegally applied its rules and had not used fair procedures. The Respondent gave evidence regarding its conduct of the transfer process and argued that it had legally applied the relevant rules and that all of the procedures used had been fair.

1. **Decision & Award**

For the purpose of adjudicating on a transfer and request from a player the County Board must have regard to the Official Guide in force at the time the transfer request is

made. In this case the applicable Official Guide is the 2006 version and Ross O'Bradaigh's transfer request is dated 19th December 2006.

2. We accept that Ross O'Bradaigh played under 12 championship football for Clara in 1998 and in accordance with Rule 33 of the Official Guide 2006 we are satisfied that he has established that Clara is his home club.
3. We are satisfied that as per Rule 38D of the Official Guide 2006 the Respondent has the right, acting within its Bye-Law, to grant or not to grant an application for transfer.
4. We are satisfied that paragraph 14 of the Respondent's Bye-Laws edition and paragraph 15 of the 2007 Bye-Laws are identical and do not conflict with any section of Rule 38 of the Official Guide 2006.
5. For the sake of clarity we find that the third paragraph of Bye-Law 15 of the Respondent's 2007 Bye-Laws (which is identical to paragraph 14 of the 2006 Bye-Laws) simply sets down two criteria either of which the Claimant must satisfy before the Respondent can even consider the transfer request. In considering the transfer request the Respondent has an unfettered discretion to grant or refuse the transfer provided it acts within the terms of its own Bye-Laws and observes fair procedures.
6. We are satisfied that the Respondent had the power at their discretion to grant or refuse the transfer request of the Claimant and on the basis of the evidence presented we find that the Respondent did not illegally apply any rule and there is no evidence that any unfair procedures were used.
7. We therefore refuse the relief sought by the Claimant.

This is the unanimous decision of the Tribunal.

Signed at Mullingar Park Hotel, 30th March 2007.

Matt Shaw
John Fay
David Murphy

The Respondent did not seek the costs of the hearing against the Claimant and the Tribunal therefore makes no order as to costs. The Tribunal however directs that the Claimant pay the expenses of the Tribunal.