

DISPUTES RESOLUTION AUTHORITY

DRA/6/2009

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

CUMANN IOMANAI GORT INSE GUAIRE

-V-

TOMAS O'CUINNEAGAIN (MAR IONADAI AR SON COISTE EISTEACHTA CLG
COISTE COMHAIRLE CONNACHT) AGUS MICHAEL O'MUINNEACHAIN (MAR
IONADAI AR SON COISTE CHEANNAIS NA GCOMORTAIS NA GAILLIMHE)

DECISION & AWARD

1. BACKGROUND

- (a). The Claimants are a Galway Hurling Club participating in the 2008 Galway under 21 Hurling Championship. The Claimants received a fixture for a quarter final of the under 21A hurling championship against Creachmhaoil for Saturday 14th February 2009 and the match was a draw after 60 minutes and extra time was played after which both teams were still level.
- (b). The fixtures booklet produced by Galway County Board for their competitions and all of the fixture notices issued to participating clubs in the under 21A Hurling Championship for 2008 clearly stated that extra time was to be played in these games in the event of a draw. The Claimants played a number of earlier rounds in this competition and progressed to a quarter final stage. One of the Claimants under 21 players namely Sylvie Óg Ó Linnain had been suspended for one month and one match on the 6th December 2008. This player Sylvie Óg Ó Linnain played for the Claimants in the extra time played on the 14th February 2009.
- (c). Creachmhaoil GAA Club objected to the fact that Sylvie Óg Ó Linnain had played in extra time and the Galway Competitions Control Committee made a decision on the 23rd February 2009 whereby they awarded the game to Cumann Creachmhaoil and the player involved Sylvie Óg Ó Linnain was notified that he had committed a playing infraction namely “illegal participation while under

suspension” and that a fixed penalty of 24 weeks applied commencing on the 14th February 2009. The notice of disciplinary action dated 24th February 2009 sent by the Secretary of the Galway Competitions Control Committee to him included the relevant copies of the portion of the referees report and a reply form and Sylvie Óg Ó Linnain accepted the proposed penalty and submitted a request to Páirc on Chróchaigh through Coiste Chontae na Gaillimhe for reinstatement.

- (d). The relief sought by the Claimants was for the penalised player to be reinstated forthwith and the Claimants to be allowed back into the competition.
- (e). The Claimants had appealed to Connacht Council but the decision of Galway Competition Control Committee to award the game to Creachmhaoil was ultimately upheld by Connacht Council.

2. PRELIMINARY MATTERS

Michael Ryan, Solicitor appeared for Galway County Board and Connacht Council and the Claimantss were represented by Gerry Sheehan, Club Secretary of the Claimants and by Mattie Murphy a Club member.

- 1. Prior to the commencement of the hearing both the Claimants and Respondents handed into the Tribunal a statement of 11 matters of act which had been agreed between the parties and in respect of which no evidence would need to be called or given. These agreed facts were as follows:-
 - (i). The match between the Claimants and Creachmhaoil took place on the 14th February 2009.
 - (ii). Sylvie Óg Ó Linnain had been previously suspended on the 6th December 2008 for one month and a match.
 - (iii). It was agreed that Pascal Ó Siocháin referred the match.
 - (iv). It was agreed that the match ended in a draw.
 - (v). It was agreed that there was no dispute or issue about the names on the team sheets.
 - (vi). It was agreed that extra time was played and that the extra time ended in a draw.

- (vii). It was agreed that the Galway Competitions Controls Committee meeting took place on the 23rd February 2009 dealing with the referees report in Oranmore, Co. Galway.
 - (viii). It was agreed that the Connacht CEC meeting took place on the 5th March in Ballyhaunis, Co. Mayo.
 - (ix). It was agreed that Sylvie Óg Ó Lionnain accepted his suspension in relation to the incident which took place in a match on the 6th December 2008.
 - (x). It was agreed that the referee's report which came before both Galway Competitions Control Committee and Connacht Council CEC had the names of both participating clubs in English.
 - (xi). It was agreed that Sylvie Óg Ó Lionnain played in extra time on the 14th February 2009.
2. The Tribunal was informed that the 2008 under 21A Hurling Championship in Galway was stalled pending resolution of this matter.
- (a). Both the Claimants and the Respondents were asked by the Tribunal to address the Tribunal regarding the position of Creachmhaoil who had been awarded the match in question by Galway Competitions Control Committee. There was no application made by either the Claimants or the Respondents to have Creachmhaoil made a notice party to the proceedings.

3. SUBMISSIONS MADE BY CLAIMANTSS, RESPONDENTSS & EVIDENCE GIVEN.

1. Mr Sheehan for the Claimants stated that his case related to three main areas:-
- (a). He said the Claimants were disputing the entitlement of Galway CCC to use extra time in the under 21A Hurling Championship and he stated that he would be relying on Rule 3.4 of the Treoraí Oifigiúil 2008 playing rules.
 - (b). Mr Sheehan stated that his club would contend that the extra time played in the match on the 14th February 2009 constituted a new match and that therefore Sylvie Óg Ó Lionnain had served his full suspension of one month and one game and did not infringe the rules by playing under suspension when he played in the extra time.

- (c). He said that his club was objecting to the format of the referees and will be relying on Rule 10 of the Treoir Oifigiúil 2008 and in particular Rule 10(a).
- 2. In dealing with the referees report Mr Sheehan outlined that his club first received the report on the 25th February 2009. He referred to the fact that the Treoir Oifigiúil requires that each club be registered using their name in the Irish language and he submitted that the referee was obliged under Rule 10 to use the club name in Irish.

Rule 10 states: “Official documents and correspondence shall have the following in Irish.

- (a). The name of the club/committee being represented (where a club/committee is involved)”.
- 3. Mr Sheehan referred the tribunal to two previous DRA decisions, namely DRA decision 5/6/2008 and DRA decision 22/2007. Mr Sheehan submitted that these DRA decisions were authority for his submission that the names of the clubs must be in Irish on the referee’s report and that in the circumstances of this case where Connacht Council had on receipt of the referee’s report sent it back to the Galway Competitions Control Committee for “processing” and the Irish version of the clubs names had been written in on the report by the referee, that such an amendment did not fall under the exceptions at Rule 10.1 of the Treoir Oifigiúil. It was submitted that the provisions of the Treoir Oifigiúil allowing for the amendment of a report where part of the report is non compliant relates only to the exceptions set out in 10.1 of the Treoir Oifigiúil and those exceptions relate to non compliant objection, counter objection or appeal and does not relate to the correction of a referee’s report.
- 4. Mr Sheehan submitted that the Claimants had only received a copy of the amended version of the referee’s report containing the names in Irish when it was furnished to him by the Respondents as part of their response to his club’s request for arbitration. He submitted that at the hearing of the Connacht CEC on the 5th March 2009 in Mayo he made a submission and request to the chairman of that committee that the referee’s report be ruled out of order for breach of Rule 10 and that he made that request a number of times. He said that the chairman of Connacht Council CEC referred him to Rule 10A and to the exception at paragraph 4 of the Treoir Oifigiúil of Rule 10A which states that Names mentioned in the referee’s report may be in English”. It was submitted by the Claimantss that reference to “names” in exception 4 of Rule 10 is a reference to the names of players only and not a reference to the names of clubs. It was further submitted by Mr Sheehan that the referee had failed to record an objection made to him on the 14th February 2009 by the Claimants objecting to the playing

of extra time and he submitted that the referee was obliged to record that objection.

4. Mr Sheehan submitted that when Sylvie Óg Ó Linnain was suspended for one month and one game his club clearly understood this to mean a month and one 60 minute match. As evidence of the bona fides of Sylvie Óg Ó Linnain it was submitted to the Tribunal that Mr Sylvie Óg Ó Linnain had missed a college match as he was aware that he was suspended. Mr Sheehan referred to a copy of an interpretation on this rule by Ard Comhairle dated 19th July 2008 which he informed the Tribunal he received on the 20th February 2009, wherein it is recorded in the minutes of the Ard Comhairle dated 19th July 2008 that “Ard Comhairle agreed with CCC’s interpretation that if a player is suspended for a month and the next game of the competition, and that game goes to extra time, the player cannot come on in extra time”. Mr Sheehan submitted that this ruling from Ard Comhairle was not filtered down to the other units in the association and that it was not possible for his club to have been aware of the interpretation of this rule by Ard Comhairle at the time this game was played on the 14th February 2009. It was submitted by Mr Matty Murphy for the Claimants that there are a number of anomalies relating to extra time. He submitted that you can put out a complete new team in extra time and three extra subs are allowed. He said that the precise rules regarding the playing of extra time are not clear to ordinary club members. He said that there is an ambiguity regarding extra time. He said that he believed that the ruling of Ard Comhairle should have been passed onto his club. Both Mr Sheehan and Mr Matty Murphy on behalf of the Claimants submitted that extra time constituted a new game under the rules and that therefore Sylvie Óg Ó Linnain had not played while under suspension.

5. Mr Sheehan made detailed submissions to the tribunal regarding the implications of rule 3.4 of the Treoir Oifigiúil playing rules. Rule 3.4 states as follows:-

“3.4(a) Subject to the provisions of rule 3.5, if a game in a knock out competition ends in a draw, teams may, by consent, play extra time consisting of two periods of ten minutes each way, which extra time shall be obligatory in the case on a further draw in a replay.

(b). Where extra time is to be played in the competition designated in rule 3.5 below, it shall consist of two periods of extra time of ten minutes each way, and, if necessary, two further periods of extra time of five minutes each way.”

Mr Sheehan went through the competitions designated in rule 3.5 which relate to

inter county senior championship, inter county under 21 championships, inter county minor championships, inter county intermediate hurling, inter county junior hurling and football, the knockout stages of the national leagues, inter provincial competitions and other competitions but do not relate to adult inter club competitions. Mr Sheehan submitted that the Galway under 21A hurling championship is not a competition designated as an exception under rule 3.5 of the Treoir Oifigiúil playing rules. He pointed out that rule 3.6 of the Treoir Oifigiúil playing rules makes specific provision for the playing of extra time in knock out club competitions at underage up to and including minor. Mr Sheehan submitted that if the rules provided a general consent for the use of extra time in all competitions then no specific provision would need to have been made in relation to underage matches.

Mr Sheehan referred to rule 117 of the Treoir Oifigiúil which allows the relevant committee in charge to make regulations for the playing of competitions. He submitted that the committees in charge must have regard to the Treoir Oifigiúil in drawing up the various rules and regulations for the playing of competitions. Mr Sheehan submitted that the competition rules drawn up by Galway Competitions Control Committee for the playing of the Galway under 21A hurling championship as contained in the competition handbook of Galway Competitions Control Committee were not in accordance with rule and that if rule 3.4 of the playing rules had been properly applied there would have been no extra time on the 14th February as the participants would have been entitled to a replay and Mr Sylvie Óg Ó Lionnain could have played in the replay.

5. Mr Sheehan submitted that the Claimants had been forced or coerced into playing extra time on the 14th February 2009 and he referred to statements or comments made by the referee. He confirmed to the Tribunal that he proposed calling evidence as to what the referee had said on the day of the match. Mr Ryan's Solicitor for the Respondents referred the Tribunal to rule 147Z (vi) and (vii) of the Treoir Oifigiúil and said that he was objecting to the calling of evidence by the Claimants as to what the referee did or didn't say on the day of the game as the Treoir Oifigiúil at rule 147Z (vi) provided that a referee's report including any clarification thereto, shall be presumed to be correct in all factual matters and may only be rebutted where on edited video or other compelling evidence contracts it, and at paragraph (vii) "the referee or other official shall not be required to give oral evidence or to appear for a cross examination". Mr Ryan submitted that it would be unfair to allow evidence to be given alleging that the referee had said certain things in circumstances where the referee could not be called under rule to rebut such accusations.

Mr Mattie Murphy for the Claimants submitted that his club wanted to call evidence to rebut the statements made by the referee in a letter from the referee dated the 18th March 2009 addressed to both Respondents wherein the referee stated that he did not make any statement to any official of the complainant regarding player eligibility. The letter of the 18th March from the referee Pascal Ó Siocháin further outlined that at no stage did he make any reference to the award of a game.

PRELIMINARY RULING

The Tribunal unanimously found that the Claimants were entitled to call such evidence as they wished but that the Tribunal would strictly apply the rules on hearsay evidence.

6. EVIDENCE GIVEN UNDER OATH

Evidence was given on behalf of the Claimants by Mr Joseph Harte, Team Manager of the under 21 hurling team. He confirmed that both teams were level on points at the end of the game and that he had met the referee at the end of the game. He said that he hadn't considered extra time and on information that he received he decided to play Sylvie Óg Ó Linnain in extra time. He said that he assumed that extra time was a new game and that if he had been aware of the Ard Comhairle interpretation dated the 19th July 2008 he wouldn't have played Sylvie Óg Ó Linnain. His evidence was that he would need to have been inspired to know that information. He said that the player involved was totally innocent of any wrong doing. He said that he understood from talking to the referee and from talking to the Claimants delegate to the County Board that extra time had to be played. He confirmed that this had been the fourth attempt to have this claim played as it had been previously called off due to unavailability of referees and weather conditions etc.

Under cross examination he accepted that the Secretary of the Claimants had told the player one week before the game that the player was suspended for a month and a game of 60 minutes. He accepted that the competition rules allowed for extra time and that the drawn semi final which was played on the same day couldn't go into extra time but that pre semi final games could go into extra time. He accepted that the fixture notice received by the Claimants referred to extra time and that the Claimants had played earlier rounds of the competition under those circumstances where the fixture notices contained reference to extra time. He made no comment as to whether the Claimants had ever objected to extra time in relation to previous rounds. He confirmed that Sylvie Óg Ó Linnain was not

togged out for normal time but that he asked one of his selectors to get the player togged out for extra time. He confirmed that Sylvie Óg Ó Lionnain's name was on the team sheet. He said that he marked the players from 1 to 15. He said that the word Gort is in English on the team sheet and he confirmed that when the games started they had 15 players only.

Dermot Flaherty the Claimants delegate to Galway Hurling Board said that he attended all the hurling board meetings over the previous 5 to 6 years. He confirmed that when the draw was made for the competition the delegates were told that they would have to be extra time played up to quarter final stage and he said that the officials of Galway Hurling Board told the delegates that extra time was playable under the rules. He said the requirement to play extra time had been questioned but the delegates had been told that they had no choice. He said that he was at a meeting on the 3rd February 2009 of the Hurling Board when the rules relating to the 2009 championship were discussed and he said that he didn't object at that stage to the use of extra time regarding the 2009 championship. He did say however that he had queried it. He accepted that the competition handbook provided for extra time but that the delegates to the clubs had been told by those in charge that they had to comply and had no choice. He accepted that the provision for extra time was contained on the fixture notice issued to both clubs for the game on the 14th February 2009.

Matty Murphy club member of the Claimants said that he was in Claremorris at the Connacht Council meeting on the 6th March 2009. He said that Mr Sheehan the Claimants Secretary referred the Chairman of that meeting to previous DRA judgements and asked the Chairman of Connacht CEC to rule the referee's report out of order. He said that he believed that the only report before Connacht CEC on that occasion was the referee's report with the names in English only on it. He said that he took exception to being asked by the Chairman of Connacht CEC if he was a club member and he said that he shouldn't been asked that question. Under cross examination he accepted that having clarified that he was a club member that he was allowed to stay on at the meeting of Connacht CEC. He said he was aware that the referee's report was sent back by Connacht CEC for reprocessing and he said that he could not say if that was permissible under rules. He confirmed that he wasn't at the match on the 14th February but said that he believed that the Respondents were using the rule book for their own purposes. He accepted that extra time was on the fixture notice given to the club for the game on the 14th February and the previous rounds.

Mr Sheehan further submitted that the fixtures booklet was advisory only and made no reference to obligatory extra time. He said that the fixtures booklet did

not use the word “shall” regarding the use of extra time. He submitted that his club had all stages complied with and played by the rules.

Mr Ryan on behalf of the Respondents submitted as follows:-

1. The referee’s report was in compliance with Rule 10 of the Treoir Oifigiúil. He submitted that the exception at rule 10.4 is a reference to names of both clubs and players and that the referee’s report which initially came before the Galway Competitions Control Committee and subsequently went to Connacht CEC was in order. He submitted that under Rule 155(n) of the Treoir Oifigiúil Connacht CEC were entitled to send the matter back for reprocessing and that it was under that rule namely rule 155(n) that the referee’s report was sent back for amendment so that ambiguity applying to the report could be cleared up. He submitted that the letter from the referee of the 17th April 2009 confirmed that it was the referee who made the amendments to the report.
2. He submitted that under Rule 112 it is the committee in charge only that awards the game and that the referee has no power to award a game.
3. He said that he referred the Tribunal to Rule 1.6 of the official guide playing rules and in particular page 21 and 22 thereof which lists the items that should be included in the referee’s report. He submitted that the Treoir Oifigiúil makes no reference to any requirement that a referee should record in his report a protest received from participants in a game.
4. He referred the Tribunal to Rule 154(h) regarding the obligation of committees in charge to furnish copies of referee’s report. The obligation relates to the requirement of the committee in charge to furnish copies of reports where a written request is received and that in this case no written request had been received for a report.
5. He referred the Tribunal to Rule 147Z subparagraph (vi) and (vii) and in particular to the presumption that a referee’s report is correct in relation to all factual matters and the fact that a referee or other official shall not be required to give oral evidence or to appear for cross examination.
6. Mr Ryan on behalf of the Respondents submitted that the two DRA judgements referred to by the Claimants predate the 2008 Treoraí Oifigiúil and therefore do not apply in this case. He also submitted that the team sheets given to the referee, a copy of which is contained in the documentation submitted to the Tribunal,

clearly contain the name of the Claimants in English and he submitted that the Irish version was only typed in as an after thought.

7. He submitted that in relation to the playing of extra time that it was nonsense to suggest that extra time is a new game. He referred the Tribunal to Rule 2.4 (ii) of the Treoir Oifigiúil playing rules which refers to the provision allowing for three further substitutions in extra time. This rule also refers to the fact that a player ordered off in any circumstance during the drawn game may not play in extra time but may be replaced.
8. Mr Ryan submitted that the committee in charge can draw up all rules and regulations for the playing of a competition under Rule 117 of the Treoir Oifigiúil. He said that the minutes of the meeting of the Galway Competition Control Committee on the 8th March 2008 show that the regulations for the playing of the Galway under 21A Hurling Championship were adopted without any objection. He said that the handbook produced shows the regulations which clearly say that extra time is to be played. He said that all fixture notices given to the clubs involved clearly state that extra time is to be played. He said that these regulations were not bye-laws and therefore did not need Ard Comhairle approval. He submitted that in relation to the Ard Comhairle interpretation of the 19th July 2008 it would be beyond expectation and impractical for this interpretation to be filtered down to all units for the association. He said that what the Ard Comhairle did on the 19th July 2008 was not to adopt a new rule but simply to interpret an existing rule. He said that Gort could have sought this information and obtained it any stage.

He submitted that Mr Sheehan the Club Secretary for the Claimants had informed Sylvie Óg Ó Linnain that he could play in extra time and that on that basis the Club were aware of the possibility of extra time and that it was encumbrant on the Claimants to seek clarification on the rules prior to the playing of the game on the 14th February.

FURTHER SUBMISSIONS

- A. Mr Sheehan for the Claimants further submitted that in advising the player Sylvie Óg Ó Linnain that his suspension was for one month and one game he wasn't anticipating extra time but was simply pointing out to the player that the suspension was for one month and one 60 minute game. He said that he didn't get the Ard Comhairle ruling or interpretation and that it seemed that no one was aware of this. He submitted that you can't break any GAA rule with a bye-law or regulation and that the organising of this under 21A hurling championship with

provision for extra time was in clear breach of Rule 3.4 of the Treoir Oifigiúil playing rules.

- B. Mr Ryan for the Respondents further submitted that the participants in the Galway under 21A hurling championship had consented to the use of extra time. He said that any clubs not consenting could have objected through their delegates or could have written in and objected. He said the rules were made and adopted, the competition handbook was published and no objection was received from anyone.
- C. Mr Mattie Murphy for the Claimants further submitted that the DRA ruling 17/2006 had found that where rules were open to interpretation the DRA must apply such an interpretation in favour of the Claimants.

In response Mr Ryan stated that the Claimants were seeking to rely on the minority judgement in the DRA case 17/2006.

DECISION & AWARD

The Tribunal has considered the written request for arbitration of the Claimants and the written response of the Respondents and have also reviewed and read the documentation furnished to this Tribunal at the hearing of this matter and having heard the evidence offered by the Claimants and after careful consideration we the Tribunal find as follows:-

1. All of the participating clubs in the 2008 Galway under 21A Hurling Championship were aware that extra time was to be played where there was a draw in the first playing of any match up to and including quarter final stage. There was no objection from any of the participating clubs to the organisation of the under 21A Hurling Championship on this basis but the Tribunal has heard the sworn evidence of Mr Dermot Flahery the Claimants delegate to Galway Hurling Board that the use of extra time had been queried by delegates but that delegates had been told that the decision had been made and that clubs had no choice on the matter.
2. This Tribunal finds that Rule 3.4 of the Treoir Oifigiúil 2008 playing rules has been breached by Galway Hurling Board by providing for mandatory extra time in the Galway under 21A Hurling Championship. Rule 3.4 clearly and unambiguously states that if a game in a knock out competition ends in a draw, teams may, by consent, play extra time consisting of two periods of ten minutes each way. This Tribunal finds that Galway Hurling Board did not have the power under Treoir Oifigiúil to make extra time mandatory in the first playing of each game in the Galway under 21A Hurling Championship and that therefore the extra

time played by the Claimants and Creachmhaoil on the 14th February 2009 was not in accordance with the Treoir Oifigiúil.

3. This Tribunal finds that the use by the referee in his report of the English version of the names of the participating clubs in the match on the 14th February 2009 was in accordance with rule and falls within the exception provided in Rule 10.4.T.O. This Tribunal finds that reference to “names” at Rule 10 .4 means reference to players and clubs and in this regard the parties to this arbitration are referred to an early decision of the DRA, decision 20/2008.
3. In relation to the specific issue as to whether or not extra time constitutes a new game it is the unanimous decision of this Tribunal that extra time is not a new game but is a continuation under Rule of the drawn game. Therefore a person who is suspended for a match which ends in a draw is not entitled to play in extra time. The Treoir Oifigiúil specifically provides that a person sent off during normal time cannot play in extra time and this Tribunal rejects entirely the submission of the Claimants that the extra time played in the match on the 14th February 2009 constituted a new game.
4. This Tribunal rejects the submission of the Respondents that the participants in the under 21A Hurling Championship consented to the use of extra time by not raising any objection at the time the rules for the competition were drawn up or by not objecting prior to the playing of such games. It is a decision of this Tribunal that reference in Rule 3.4 of the Treoir Oifigiúil Playing Rules at paragraph (a) to teams opting for extra time by consent is a reference to a decision of two teams who have just finished normal time which results in a draw and decide by consent to proceed there and then with the playing of extra time.
5. It is therefore the decision of this Tribunal that the playing of extra time in the under 21A hurling match between the Claimants and Creachmhaoil on the 14th February 2009 was unlawful and not in accordance with rule 3.4 of the Treoir Oifigiúil playing rules. This Tribunal therefore finds that the Competitions Control Committee decision on the 23rd February 2009 to award this game to Creachmhaoil following an objection received from Creachmhaoil is not in accordance with the Treoir Oifigiúil and the relief sought by the Claimants to be allowed back into competition is granted.
6. The Claimants have requested that the penalised player Sylvie Óg Ó Lionnain be reinstated forthwith. Sylvie Óg Ó Lionnain did not appeal his original disqualification and is not a party to these proceedings. This Tribunal has no power to set aside the suspension imposed on Sylvie Óg Ó Lionnain but this

Tribunal does point out that the suspension received by Sylvie Óg Ó Linnain was for playing while under suspension in a game which this Tribunal finds has not been played in accordance with Treoir Oifigiúil . This Tribunal finds that Galway Competitions Control Committee are entitled to reconsider the matter of Sylvie Óg Ó Linnain's suspension.

7. This Tribunal invites written submissions from the parties on the following matters:-
- (a). Legal costs
 - (b). The expenses of the DRA

Dated this 8th day of April 2009.

Signed:

Matt Shaw, Chairman

Gareth Robinson B.L.

Albert Fallon