

Disputes Resolution Authority

An Córas Eadrána

DRA 16 of 2015

**In the matter of the an arbitration under the Disputes Resolution Code
and the
Arbitration Act 2010**

**Paul Beecher v NTHDC (Camogie National Hearings Committee) and NFAC
(Camogie National Appeals Committee)**

Hearing: Carrickdale Hotel, Louth at 8pm on 23 October 2015

Tribunal: Pat Purcell BL, David Curran Solicitor, Patrick McCartan

Secretary to the DRA, Jack Anderson, was also in attendance

Verdict: Claim succeeds.

Keywords: Strict compliance with time limits relating to the lodging of an objection; meaning of the term "servicing officer" and "team official"; Official Guide of the Camogie Association 2015

List of Attendees:

Applicant:

Mr Paul Beecher,

Counsel for the Applicant: Mr Mark O'Connell BL

Respondent:

Mr Richard Mulholland

Factual Background:

1. Please note that this is the first Camogie Association-related hearing heard by the DRA. The DRA's jurisdiction in this regard is located in Rule 27.7 of the Official Guide Part 1 2015/2016 of the Camogie Association. References to the Official Guide/TO 2015 are to the aforementioned Camogie Association's Official Guide, which came into effect on 1 May 2015.
2. The matter comes before the Tribunal on foot of a decision by the Camogie National Hearings Committee ("NTHDC") dated 10th August 2015 and a subsequent decision of the Camogie National Appeals Committee ("NFAC")

dated 28th August 2015. The decision of both the hearings committee and the appeals committee is in relation to an application for an investigation into the composition of a team that played the Ulster Camógs in a second level college interprovincial match on 1st April 2015 held at Parnell's GAA grounds in Dublin.

3. The request for an investigation was dated 14th April 2015 from a Lisa Woods addressed to Joan O'Flynn, CEO of the Camogie Association. The request for an investigation was based upon a request under what was then Rule 4.3 of the Camogie Association's Disciplinary Code & THDC Mandatory Procedures (currently outlined in Rule 3.2 of Part IV of the Official Guide 2015). This rule is entitled "Breaches of the Official Guide other than those covered in the Referee's Report". This particular rule deals with who and how a decision to investigate can be made. It also outlines the process to be followed in conducting the investigation.
4. As a result of the request for an investigation dated 14th April 2015 received by the Camogie Association from Lisa Woods, Rule 4.3 was invoked and an investigation into the team composition in relation to the match which was played on 1st April 2015 was carried out. As a result of the investigation the Applicant to this arbitration was requested to, and did so appear, at a hearing conducted by the NTHDC held on Wednesday 5th August 2015 at Leinster GAA Headquarters in Portlaoise. The outcome of this hearing was that the NTHDC under (what is now) Rule 44.2.3 of the Official Guide 2015 imposed mandatory sanctions of match forfeiture and the suspension of Mr Beecher, the applicant, for a period of 6 months commencing 5th August 2015.
5. The Applicant appealed this decision to the NFAC. A letter dated 28th August 2015, on foot of attendance at the appeals hearing at Munster GAA Offices, Castletroy, was sent to Mr Beecher from a Caroline Fitzsimons, Office and Communications Administrator outlining that the outcome of the appeal against the decision of the NTHDC. This correspondence confirmed that the chairperson of the NFAC was upholding the decision of the NTHDC. The correspondence further outlined that the decision was final and that there was no right of appeal. A request for arbitration dated 10th September 2015 was submitted to the Secretary of the DRA. Form 1 section 4 of that Request, outlined the six reasons upon which the claim to the DRA was based. The response to the request for Arbitration was received from NTHDC dated 9th October 2015 while a response to the request for Arbitration was received from NFAC dated 13th October 2015.

Preliminary Matters:

6. At the commencement of the hearing, the Chairperson of the Tribunal, Mr Curran, reminded all parties that the arbitration was governed by the laws of Ireland and that the Arbitration Act, 2010 applied. Both Applicant and

respondent were invited to raise any preliminary matters for the tribunal to determine ahead of the substantive hearing of the dispute.

7. Mr O'Connell BL on behalf of the Applicant raised two preliminary matters. Such were contained in Form 1, the request for Arbitration, specifically at section 4. The two preliminary issues were;
 - A. That the Applicant was not an official of the team and had no connection with the team.
 - B. The request for investigation was made by letter dated 14th April 2015, nine days after the time limit provided in the NTHDC code.
8. It was asserted that Mr Beecher was not a team official nor a mentor or any other associated official of the team. It was outlined that Mr Beecher is a "servicing officer" whose charge is to help convene competitions, arrange venues, organise referees and take a gate collection if a match determined one to be put in place. It was further represented that Mr Beecher was not in the dressing room in relation to the match in question and that there was no reference to him as a team official on any official document associated with the subject match in question. Mr O'Connell BL outlined that Rule 44.2.3 of the Official Guide had been misapplied as the Applicant was not a team official as defined.
9. Secondly, counsel for the Applicant outlined that as per Rule 4.3.1 of the then Official Guide (specifically Rule 3.2.1(a) of the Official Guide 2015) any investigation must be submitted within five days of the subject fixture. Specifically, Rule 4.3.1 outlined:

Where the investigation involves a game, team composition or any other aspect of a fixture a request to investigate must be investigated within five days of the fixture in question by the unit concerned to the secretary of the committee in charge of the competition.
10. It was asserted that the request dated 14th April 2015 sent to Joan O'Flynn from a Lisa Woods was clearly outside the time imposed by the Official Guide. Such a request should have been made by 6th April 2015 at the very latest and in accordance with the rules. Counsel for the Applicant asserted that strict application of the rules of the Camogie Association means that the request for an investigation was late and any such investigation should not have occurred.
11. Mr Mulholland for the Respondent confirmed that the first request for the investigation into the subject match was the letter dated 14th April 2015. It was further asserted by the Respondent that as Mr Beecher, the Applicant to this Tribunal, attended both the disciplinary hearing and the subsequent appeal hearing that he accepted the investigation was carried out and raised no issue

as to the request for investigation being out of time. Hence the substantive hearing of the dispute before the convened DRA panel should proceed.

12. Mr Mulholland confirmed that there was no application for an extension of time for the conducting of an investigation and nor was one sought. It was further confirmed that there is no such provision for an application of an extension of time within the rules of the Official Guide and in particular Rule 4.3.1. It was further confirmed that when any hearing from NTHDC is referred to NFAC that the matter is not "triaged" to ensure full compliance with all of the rules and ensure that the matter is capable of an appeal. Mr Mulholland advised that as the Rules of the Camogie Association stood at that time, it would have been taken "as read" that the papers submitted to the appeals hearings committee were in order.

Reasoned Decision:

13. The Tribunal determined that the preliminary points raised by the Applicant ought to be accepted and that as a matter of fairness and natural justice and in the strict application of the then applicable Rule 4.3.1 of the Official Guide the investigation carried out on foot of the request dated 14th April 2015 was out of time. The construction of Rule 4.3.1;

Where the investigation involves a game, team composition or any other aspect of a fixture a request to investigate must be investigated within five days of the fixture in question by the unit concerned to the secretary of the committee in charge of the competition.

is such that it contains "a shall" provision. The language used is of a mandatory nature by the employment of "must" and using the phraseology "a request to investigate must be investigated within five days of the fixture in question" it has been determined that the matter should not have been investigated as the request for such an investigation fell outside the provisions of the Camogie Association's own rules. The investigating committee and subsequently the NTHDC erred by carrying out the investigation and subsequently convening a disciplinary hearing based on an investigation which should not have been conducted. The request for such an investigation was 13 days post the subject match in question and 7 days outside the provisions allowed for the then applicable Rule 4.3.1 of the Official Guide (now applicable to Rule 3.2.1(a) of the Official Guide 2015).

14. Accordingly, the Tribunal has decided that the substantive claim by the Applicant to the Tribunal does not need to be determined.

Award and Costs:

15. The Tribunal awards in final and binding determination of this dispute that for the reasons outlined above the appeal of the Applicant, Mr Paul Beecher, should be allowed.

16. After hearing oral representations made on behalf of the Applicant by Mr O'Connell BL on the issue of legal costs and the costs of the Tribunal as well as the deposit paid to the DRA, the Tribunal determines that there should be no order as to legal costs or any other costs of representation incurred by the Applicant. It is further directed that the Applicant has his deposit returned to him in full and that the Respondent bear the costs of the Tribunal, such costs to be determined by the Secretary to the DRA.

Dated of Oral Hearing: 23 October 2015

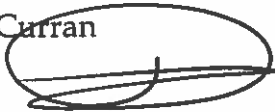
Date of Agreed Award:

Signed:

Pat Purcell

A handwritten signature in cursive script, appearing to read 'Pat Purcell'.

David Curran

A handwritten signature in cursive script, appearing to read 'David Curran'.

Patrick McCartan

A handwritten signature in cursive script, appearing to read 'Patrick McCartan'.

Dated of Oral Hearing: 23 October 2015

Date of Agreed Award:

Signed:

Pat Purcell

David Curran

Patrick McCartan