

Disputes Resolution Authority

An Córas Eadrána

DRA 8 of 2017: In the matter of the an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

BAILE NA mBRANNACH C.L.G

Claimant

v.

PATRICK AMOND

First Named Respondent

CARLOW HEARINGS COMMITTEE

Second Named Respondent

LEINSTER HEARINGS COMMITTEE

First Named Interested Party

SPECIALLY CONSTITUTED COISTE EISTEACHTA CEATHARLACH

Second Named Interested Party

Hearing: Maldron Hotel, Portlaoise, Co Laois at 7.30pm on 21 September 2017

Tribunal: Aoife Farrelly BL, Eamonn Denieffe and Willie Barrett

Secretary to the DRA, Rory Hanniffy

Verdict: The claim is dismissed.

Keywords: *Locus standi, Parties entitlement to appeal following an investigation.*

List of Attendees:

Claimant – Baile Na mBrannach CLG:

Peter Brennan
Majella Owens
Seamie Dunne
Jason Hughes
Declan McDonald

Respondent 1 - Patrick Amond:

Pat Amond
Dale Amond

Respondent 2 - An Choiste Eisteachta Ceatharlach :

Philip Meaney

Interested Party - Specially Constituted An Choiste Eisteachta Ceatharlach:

Michael Errity

Interested Party - Coiste Éisteachta Laighean

Dick Butler – Chairman
John Byrne - Secretary

PRELIMINARY MATTERS

The Claimant's request for Arbitration dated 4th May 2017 has named Patrick Amond and Carlow Hearings Committee as Respondents to the Arbitration. It has named Leinster Hearings Committee as a body concerned or affected. It was accepted by the Tribunal that this was an error and the correct Respondents were Coiste Éisteachta Ceatharlach and Coiste Éisteachta Laighean and that Mr. Amond and Coiste Éisteachta Spisialta Ceatharlach were affected or concerned parties rather than Respondents. The Tribunal allowed the affected or concerned parties remain for the hearing. The title of the Arbitration is further to the Request for Arbitration. No parties raised any objection to the amendments and housekeeping orders of the Tribunal as set out above.

FACTUAL BACKGROUND

1. There is a long and unfortunate history to this claim, relating to a dispute between Baile na mBrannach (hereinafter "the Claimant") and Mr. Amond. The nature of this dispute does not form part of the claim at issue before this Tribunal. It was apparent to the Tribunal that both Coiste Éisteachta Ceatharlach and Coiste Éisteachta Laighean made genuine efforts to resolve the issues between the parties. Unfortunately, attempts at mediation failed for a variety of reasons.
2. The Claimant's application for arbitration related to 2 separate decisions, set out below:
 - i). Decision of Coiste Éisteachta Ceatharlach of 1st December 2015
 - ii). Decision of Coiste Éisteachta Laighean of 26th April 2017.
3. On 4th May 2015, the Claimant sought an investigation pursuant to Rial 7.3.(aa)(4) which reads as follows:

"Any Member found by the Hearings Committee to have given deliberately false evidence, whether orally or in writing, or to have

deliberately misled any Hearing, shall be suspended for a minimum of 48 weeks, without a further Hearing”

4. Coiste Éisteachta Ceatharlach, following much consideration convened a “hearing” into the matter on 10th November 2016. It is the view of the Tribunal that this matter ought more properly to have been termed and processed as an “investigation” at which the Claimant provided witnesses rather than being a “party”. After hearing evidence from both sides, Coiste Éisteachta Ceatharlach took further evidence or clarification over the telephone from a Club Trustee, the nature and content of which was not notified to the Claimant. Thereafter, Coiste Éisteachta Ceatharlach held that they could not find any conclusive evidence of misleading. The finding was communicated to the Claimant and to Mr. Amond by Notice dated 1st December 2016.
5. It is the view of the Tribunal that the “investigation” by Coiste Éisteachta Ceatharlach was not a matter on which the Claimant had a right of appeal. While it was accepted by most affected parties that the telephone call made following the meeting ought not to have been made, it is the view of the Tribunal that the substantive issue is that this was a finding of an investigation to which the Claimant provided witnesses and/or evidence but was not a party. Therefore, the Claimant had no *locus standi* to appeal the finding. It is noteworthy that the Coiste Éisteachta Ceatharlach did not offer an option of appeal in its decision.
6. On 4th December 2016, the Claimant appealed this decision to Coiste Éisteachta Laighean. Coiste Éisteachta Laighean set a hearing date for the appeal of 13th December 2016. At this hearing, Coiste Éisteachta Laighean felt it required more documentation from the Claimant and adjourned the hearing to allow the relevant documentation to be compiled. The Claimant submitted this documentation and a re-hearing was scheduled for 31st January 2017. The

appeal was upheld and the matter was sent back to be re-processed by a specially constituted Coiste Éisteachta Ceatharlach.

7. Without embarking on a review of this aspect of the claim, the Tribunal is of the view that where the Claimant had no *locus standi* to appeal the decision of 1st December 2016 (as set out above), Coiste Éisteachta Laighean ought not have engaged the process of appeal at all. Unfortunately, the engagement of Coiste Éisteachta Laighean in the process has ultimately led to the Claimant's request for arbitration before this Tribunal.

DECISION

8. The Tribunal finds as follows:
 - i). The Claimant had no *locus standi* to appeal the finding of the investigation of Coiste Éisteachta Ceatharlach dated 1st December 2016. Therefore the finding of Coiste Éisteachta Ceatharlach of 1st December 2016 stands.
 - ii). That as a consequence of its decision regarding the Claimant's standing relating to the decision of 1st December 2016, the Tribunal finds that Coiste Éisteachta Laighean had no jurisdiction to hear an appeal from a party without standing and all hearings and matters that flow from this defective appeal are null and void.
 - iii). Coiste Éisteachta Laighean bear the primary responsibility for the engagement in the process from 13th December 2016 to 21st September 2017.

For the foregoing reasons, the Claimant's claim is dismissed and the reliefs sought refused.

The Tribunal directs that the expenses of the Arbitration be borne by Coiste Éisteachta Laighean.

The Tribunal wishes to specifically acknowledge the honourable intentions of Coiste Éisteachta Laighean, in attempting to resolve a difficult and unfortunate situation. It is noted that Coiste Éisteachta Laighean arranged, on more than one occasion, for mediation and while this did not bring an end to the matter, the efforts of Coiste Éisteachta Laighean are commendable. It is regrettable that members and clubs should find themselves pitted against one another in such a way. As the Tribunal has a quasi judicial function, the examination and review of the facts of the case must be carried out in such a manner.

This is the unanimous decision of the Tribunal

Date of Oral Hearing: 26 July 2017

Date of Agreed Award: 20 October 2017

By email agreement on agreed date above.

Aoife Farrelly BL

Eamonn Denieffe

Willie Barrett