

Disputes Resolution Authority

An Córas Eadrána

DRA 17 of 2017: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

CUMANN BEAL ATHA NA MUICE

Claimant

v.

AN LAR CHOISTE ACHOMHAIRC

First Named Respondent

COISTE EISTEACHTA CHONNACHT

Second Named Respondent

COISTE CHEANNAIS NA GCOMORTAISÍ MAIGH EÓ

Third Named Respondent

CUMMANN MHUINNE CHONAILLAIN

Fourth Named Respondent

Hearing: The Mullingar Park Hotel, Mullingar, Co Westmeath at 7.30pm on 18 January 2018

Tribunal: David Nohilly, Ferga McGloughlin BL and Declan Hallissey

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim is dismissed.

Keywords: *Preliminary issues – jurisdiction - 7.13(d) T.O. - Obligation to exhaust all avenues of appeal - 7.11(a) T.O. - Right of appeal, appeal against the rejection of an appeal for non-compliance with formalities.*

LIST OF ATTENDEES:

Claimant – Cumann Beal Atha Na Muice (Swinford)

Shane Campbell
Douglas Kelly

First Named Respondent - An Lar Choiste Achomhairc (CAC)

Matt Shaw
Mel Clarke
Bernard Smith

Second Named Respondent - Coiste Eisteachta Chonnacht (Connacht HC)

Tomás Ó Cuinneagáin

Third Named Respondent - Coiste Cheannais Na Gcomortaisi Maigh Eo (Mayo CCC)

Seamus Tuohy

Fourth Named Respondent - Mhuinne Chonaillain (Bonniconlon)

Derek Beckett
Michael McKenzie

FACTUAL BACKGROUND

1. The within application relates to the awarding by the Third Named Respondent (Mayo CCC) of a Mayo Senior League Division 1C football fixture which took place on 22 October 2017 on foot of an objection by the Fourth Named Respondent (Bonniconlon).
2. Interestingly, Mayo GAA have divided the League into Division 1A, 1B, 1C, 1D, 1E and 1F. The reason for using this lettered and numbered terminology is not to stigmatise those clubs in the lowered tiers of the division. Also, a club (as was the case here) with more than one team would then nominate players to play in the upper tiers of the division which must include at least twelve players from the previous year's championship.
3. On Sunday 23rd September 2017, the Claimant Club played Burrishoole in a Division 1C game and a player from the Claimant's Club received a red card. The penalty as in normal course was a one match suspension in the same code and at the same level, applicable to the next game in the same competition. This sanction was accepted and not queried by the player. He was not one of the nominated players.
4. On Sunday 15th October 2017, the Claimant played Ardnaree in a Division 1E game and that player did not play. However, he did play the following Division 1C game on the 22nd October 2017 against Bonniconlon believing he had already served his suspension. The Claimant won that game by a point and an objection was lodged by Bonniconlon to Mayo CCC. The Tribunal did not hear evidence from the player and the facts here in relation to serving his suspension in Division 1E game is merely a presumption on our part.
5. The Claimant appealed the Mayo CCC decision dated 6 November 2017 to the Second Respondent - Coiste Eisteachta Chonnacht (Connacht HC). Following

a hearing on 21 November 2017, Connacht HC upheld the Claimant's appeal. Thereafter, the Fourth Respondent - Mhuinne Chonaillain (Bonniconlon) successfully appealed the matter to An Lár Choiste Achomhairc (CAC). The Claimant has identified the CAC decision dated 15 December 2017 as the sole disputed decision.

6. When the hearing commenced the Tribunal reserved its position on the initial jurisdictional point by the CAC pending further discussions between members of the Tribunal and by agreement and to facilitate the parties it proceeded to hear the substantive issues. We now set out our decision in relation to that preliminary jurisdictional issue and as a result, the latter substantive issue is largely irrelevant.

FINDINGS

7. The appeal by the fourth named Respondent, Bonniconlon before the CAC was on three grounds *inter alia* (1) Connacht HC had erred and misapplied Rule 7.11(o) T.O. 2017 (2) Connacht HC had erred and misapplied Rule 7.10(d)(1) by ruling the objection out of order under Rule 7.10(e)(1) in circumstances where this was not raised by the Claimant at the objection hearing before the Mayo CCC or Connacht HC (3) Connacht HC had erred and misapplied Rule 7.11(p). This is our numbering for ease of reference.
8. The CAC upheld the appeal on one ground, that is number (2) above and simply put, they had no jurisdiction in the matter considering this argument was not previously raised by the Claimant either before the Mayo CCC or Connacht HC.
9. It was accepted on behalf of the Claimant that they did not raise the 'deeming of the objection in order' under Rule 7.10(e)(1) either before the Mayo CCC or

Connacht HC but did raise Rule 7.10(d)(1) and by implication that would have included Rule 7.10(e)(1) and therefore, no prejudice occurs.

10. However, to succeed under Rule 7.10(d)(1) one must first challenge the substance of the decision by the Mayo CCC which was made under Rule 7.10(e)(1) deeming the objection in order and unfortunately this was not done by the Claimant.

DETERMINATION

11. The Tribunal finds that it has no jurisdiction to hear this dispute and dismisses the claim.
12. Rule 7.13(d) is very clear that no member or unit shall refer a matter for Arbitration until all available avenues of Appeal under the Rules have been exhausted. In this instance, this did not occur.
13. Whilst one would have sympathy for the Claimant given their impressive arguments before us on the vagueness in the suspension as outlined against the player concerned (which coincidentally as an aside, it may have been read in favour of the player) it nevertheless would create a very unhelpful precedent to allow points of arguments before us to proceed where they were not previously adjudicated by those other Units of the Association. This is a well-established Rule of Law. As such, previous arguments before the Units must be exhaustively adjudicated on.

RECOMMENDATION

14. The Tribunal recommends that where Match Suspension based disciplinary sanctions are being proposed/imposed on players that such notices indicate clearly to what specific game(s)/league division a suspension arises i.e. in what code, at what level and in what competition.

COSTS AND EXPENSES

15. The Tribunal directs that the Claimant shall pay the Tribunal's expenses. There is no order for costs.

This is the unanimous decision of the Tribunal

Date of Oral Hearing: 18 January 2018

Date of Agreed Award: 5 February 2018

By email agreement on agreed date above.

David Nohilly

Ferga McGloughlin

Declan Hallissey