

Disputes Resolution Authority

An Córas Eadrána

DRA 03 of 2018: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

**BAILEPIOCÁS
(Ballypickas GAA)**

Claimant

v.

**COISTE CHONTAE LAOISE
(Laois CCC)**

First Named Respondent

**COISTE EISTEACHTA LAOISE
(Laois HC)**

Second Named Respondent

PADRAIG & DEIRDRE CAHILL

Interested Party

**BAILE NA COLLE CLG
(Ballinakill GAA)**

Interested Party

Hearing: Abbey Court Hotel, Nenagh, Co Tipperary at 7.30pm on 22 May 2018

Tribunal: John Callinan, David Nohilly, and Willie Barrett

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim is dismissed.

KEYWORDS: *Preliminary application – Whether Form 2 Reply delivered within permitted timeframe – DRA Code Rule 6.*

Transfer application - Official Guide, Rule 6.5 – Laois Bye-Law 6(F)(iii)(c) – “Prominence to Club base”- conferring of absolute discretion on relevant county committee.

LIST OF ATTENDEES:

Ballypickas GAA:

John O'Dea
Mary Whelan
Tom Cahill
Mairead Palmer
Pat Dooley

Coiste Chontae Laoise

Peter O'Neill, Chairman
Niall Handy, Secretary

Coiste Eisteachta Laoise

Adrainne Mhic Cárthaigh - Secretary

John Hanniffy – Chairperson

Padraig & Deirdre Cahill

Baile Na Colle CLG

Mairead Fitzpatrick

FACTUAL BACKGROUND

1. The Claimant is a Hurling Club in County Laois and draws its members predominantly from the Spink/Ballyroan catchment areas.
2. Three members of the Claimants Club made an application to transfer to Ballinakill GAA Club. The three members were from the same family and were siblings.
3. The transfer application was considered by the First Named Respondent (Laois CCC) on the 13th February 2018 and a decision was made to approve the transfer.
4. The Claimant Club unsuccessfully appealed that decision to the Second Named Respondent (Laois HC) and that hearing took place on the 9th March 2018.
5. The Claimant Club subsequently referred the matter for Arbitration before the Disputes Resolution Authority on the 15th March 2018.

PRELIMINARY

6. The Claimant Club made a preliminary point regarding the timing of the filing of the Reply of the First Named Respondent and whether same was in order under Rule 6 of the Disputes Resolution Code. It was noted that the Reply was filed by email on the 26th March 2018 at approximately 9.50am (with a deadline of 4pm). However, under Rule 6.4(c) of the DRA Code, such email reply shall be deemed to be served '*at the expiration of 12 hours after receipt of same has been automatically acknowledged...*'. The Tribunal having considered the matter, ruled that this Rule is in place to offer a grace period to the Receiver (of that email) and not the sender.
7. In any sense, where the Claimant could not show a prejudice, the Tribunal were entitled to deem such communications to be 'adequate' per Rule 6.6 of the DRA Code.

DISCUSSION

8. Rule 6.5 T.O. governs transfers within a county. It states simply (amongst other things) that a County shall have a bye law governing the transfer of members from one Club to another within a County.
9. Laois GAA have in force a set of Bye laws that have evolved over the years and which govern the principles of allowing such transfers internally within the County. Whilst it is not necessary to quote those same Bye laws verbatim, the relevant provision for the purposes of this case is Rule 6(F)(iii) :-

'RURAL TO RURAL TRANSFER

c) Proximity to Club Base- a Player may apply for a transfer to the Club/Independent Team based on proximity to Club Ground. '

10. This transfer was sanctioned as one appropriate under that Rule due to the children's proximity to Ballinakill GAA Club.

CONCLUSION AND DETERMINATION

11. At the heart of this case is an application by three young children who want to transfer to a different club. This is a delicate balancing act by the County Committee. On the one hand, they must seek to protect the viability of a long-established Club and on the other, seek to protect what is in the best interests of the children seeking a transfer in order to foster and maintain their involvement in Gaelic Games.
12. Rule 6.5 TO and Rule 6 of Laois County Bye Laws confers an absolute discretion on the relevant County Committee whether to allow a transfer or not. The use of the word 'apply' in the Bye Law indicates such.

13. This discretion of course must be exercised fairly by the relevant County Committee. Each case is different and a decision is reached on its own merits.
14. Assuming that discretion is exercised fairly, the Claimant has no rights either under Law and/or the Official Guide or otherwise (as claimed) to prevent such a transfer from being effected.
15. Of course, County Committees need to make policy decisions to prevent against a haemorrhaging of members from one club to another, which can happen for a myriad of reasons.
16. However, the Club themselves have a part to play in preventing such haemorrhaging, they should take steps to develop members loyalty to one's club. That is a difficult task but may involve a Club looking inwards to its personnel to ascertain whether they best serve the Club's interests.
17. There are many Clubs that operate within proximity to each other who are capable of fostering, developing and maintaining that loyalty ethos to one's club.
18. There was much discussion regarding Rule 6.1 T.O. and its aspirations. We are satisfied that the Respondents considered this Rule in reaching their decision.
19. Finally, we are satisfied that the Respondents have properly applied the Rules contained in the Official Guide and its own Bye Laws. There was no evidence before us that the Respondents exercised their discretion unfairly or in a manner which was manifestly incorrect and devoid of all reason.
20. The Claim is dismissed.

This is the unanimous decision of the Tribunal

RECOMMENDATION

21. The Tribunal recommends that the Respondents continue with the approach to engage constructively (by mediation or otherwise) with Clubs in the County concerning transfers.

COSTS AND EXPENSES

22. Section 11.2 of the Code sets out that save in exceptional circumstances, which must be set out in writing, the Party deemed by the Tribunal to have been successful in the disputes resolution proceedings shall, on application, be entitled to its reasonable costs.
23. In circumstances where neither party made an application in respect of costs, the Tribunal makes no order in respect of same.
24. The Tribunal directs that the DRA's expenses be discharged from the Claimant's deposit and further directs that any surplus be reimbursed to the Claimant by the Secretary.

Date of Oral Hearing: 22 May 2018

Date of Agreed Award: 26 June 2018

By email agreement on agreed date above.

David Nohilly

John Callinan

Willie Barrett