

Disputes Resolution Authority

An Córas Eadrána

DRA 12 of 2018: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

ANTAINE Ó LUAIN (TONY LAMBE)

Claimant

v.

COISTE BAILE ATHA CLIATH (DUBLIN GAA)

First Named Respondent

and

COISTE NA REITEOIRI BAILE ATHA CLIATH (DUBLIN GAA REFEREES COMMITTEE)

Second Named Respondent

Hearing: Louis Fitzgerald Hotel, Naas Road, Newlands Cross, Dublin at 7.30pm on 13 December 2018

Tribunal: Michael Murray BL, Gareth Robinson BL and John Healy

Secretary to the DRA, Rory Hanniffy BL

VERDICT: Preliminary objection as to jurisdiction upheld and claim is dismissed.

KEYWORDS: *Section 5.7 DRA Code T.O. 2018 – jurisdiction of Tribunal.*

Section 2.1(e) DRA Code T.O. 2018 and 7.13 (d) T.O. 2018 - Necessity to exhaust all avenues of appeal

Section 7.11(a)(2) T.O. 2018 – Obligation to appeal to Provincial Hearings Committee

LIST OF ATTENDEES:

Claimant – Tony Lambe:

Tony Lambe
Mark O’Connell BL
Declan Hallissey

Dublin GAA:

John Costello

Dublin GAA Referees Committee

Tom Quigley

FACTUAL BACKGROUND

1. The within application arises following the classification of the Claimant, a referee of 35 years standing, by the Second Named Respondent, the committee established by the First Named Respondent under the Bye-Laws of the First Named Respondent pursuant to Riail 3.20(vi) of T.O. 2018, and mandated with responsibility for, *inter alia*, the administration of the panel of referees to be considered for appointment for matches run under the auspices of the First Named Respondent.
2. The Claimant was informed of his classification for the 2018 season and duly designated grade A2 by the Second Named Respondent on or about the 9th of June 2018. This grading accordingly classified him as eligible to referee all games played under the auspices of the First Named Respondent with the exception of Senior Football and Hurling Championship games and Senior 'A' Football and Hurling League games. The Claimant had previously been graded at A level, thus designating him eligible to referee all games played under the auspices of the First Named Respondent, including Senior Football and Hurling League and Championship games.
3. The Claimant was furnished with written confirmation of his grading for 2018 on or about the 4th of August 2018 by the Second Named Respondent which affirmed his grading at A2 level and further written confirmation of his classification on or about the 19th of September 2018.
4. The Claimant filed an appeal in respect of the decision of the Second Named Respondent dated the 19th of September 2018 with Coiste Éisteachta Átha Cliath ("Dublin HC") on or about the 23rd of September 2018.
5. At a meeting of Dublin HC held on the 25th of September 2018, the Claimant's appeal was ruled out of order as it did not comply with Riail 7.11(f) of T.O. 2018 and Riail 7.11(g)(1) of T.O. 2018.

6. On or about the 29th of September 2018, the Applicant purported to appeal the decision of the First Named Respondent to Coiste Éisteachta Laighean (“Leinster HC”). This appeal was not pursued to finality and was not adjudicated upon by Leinster HC.
7. The Claimant’s request for arbitration was made on or about the 24th October 2018 and a hearing was convened on the 13th December 2018.
8. The Claimant seeks, *inter alia*, a declaration that he is entitled to referee Senior Championship Hurling and Football games in the Dublin county area.

DISCUSSION

9. A preliminary point was advanced by the First Named Respondent by way of written and oral submissions that the Claimant had not exhausted all avenues of appeal open and available to him prior to seeking arbitration of the matter before the Tribunal and that accordingly, the Tribunal had no jurisdiction to consider the application.
10. The Tribunal considered Riall 7.11(a)(2) of T.O. 2018 which provides for a right of appeal “...In respect of decisions of a County Committee or a Sub-Committee formed under Rule 3.20 exercising plenary powers, to the Provincial Hearings Committee...” The Respondents submitted that the decision of the Second Named Respondent to classify the Claimant as a category A2 referee for the 2018 season fell within the ambit of said rule and that accordingly, the Claimant was misconceived in appealing the decision of the Second Named Respondent to Dublin HC and not directly to Leinster HC.
11. Despite Leinster HC purportedly remitting the matter to Dublin HC for hearing, the Respondents asserted, correctly in the view of the Tribunal, that Dublin HC had no jurisdiction to consider the Claimant’s appeal and it was

common case that Leinster HC had not adjudicated upon the Claimant's appeal.

12. The Tribunal retired to consider this preliminary jurisdictional point.

CONCLUSION AND DETERMINATION

13. The Tribunal finds that it has no jurisdiction to hear the dispute and accordingly dismisses the claim.
14. The Tribunal reaffirms the previous decisions of the Tribunal in Cumann Turloch Mór -v- Coiste Éisteachta Chonnacht & ors. (DRA 16/2017) and Cumann Beal Átha na Muice -v- An Lár Choiste Achomhairc & ors. (DRA 17/2017) with regard to Riail 7.13(d) and the obligation to exhaust all available avenues of appeal under the rules of the Association prior to arbitration before the Tribunal.
15. In this particular instance, the Claimant had not pursued his appeal to finality before Leinster HC who had not adjudicated upon his claim.

This is the unanimous decision of the Tribunal

COSTS AND EXPENSES

16. No Application for costs was made on behalf of the Respondents, however 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: 17 December 2018

Date of Agreed Award: 12 February 2019

By email agreement on agreed date above.

Mr. Michael Murray BL

Mr. Gareth Robinson BL

Mr John Healy