

Disputes Resolution Authority

An Córas Eadrána

DRA 07 of 2018: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

**CLG CHILL CHARTA
(Kilcar GAA)**

Claimant

v.

**CCC DHÚN NA GALL
(Donegal CCC)**

First Named Respondent

**COISTE EISTEACHTA ULADH
(Ulster HC)**

Second Named Respondent

**CLG GAOTH DOBHAIR
(Gweedore GAA)**

Interested Party

Hearing: Kilmore Hotel, Dublin Road, Co. Cavan at 7.30pm on 12 July 2018

Tribunal: Aoife Farrelly BL, Mark Curran BL and Declan Hallisey

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim is dismissed.

KEYWORDS: *Awarding of a Game - failure to field team - R6.43 TO.
Appeal limited to matters raised in notice of appeal as lodged - R7.11(o)*

LIST OF ATTENDEES:

Kilcar GAA:

Barry Doherty
Nicola Doogan

Donegal CCC:

Frankie Doherty (Chairman)
Declan Martin (Secretary)

Coiste Eisteachta Uladh - Ulster HC

Eamonn McMahon (Chairman)
Seán Mac Cionna (Secretary)

Interested Party - Gweedore GAA

Criostóir Mac Suibhne
Alan Ó Baoid (Ionadaí Bord na Condae)

PRELIMINARY MATTER

Coiste Eisteachta Cúige Uladh (Ulster HC) objected to their inclusion in the proceedings. The committee's contention was that no case had been made out against it and that no rule infringement had been cited in the Claimant's request for arbitration which involved a misapplication of a rule by them.

The Tribunal noted that the Secretary of the DRA has discretion to indicate the appropriate parties to be joined as Respondents and as Interested Parties and the Tribunal could not interfere with the Secretary's exercise of his discretionary power.

FACTUAL BACKGROUND

1. On 12th May 2018, a Donegal Division 1 Senior League fixture was fixed to take place between C.L.G. Chill Chartha and C.L.G. Gaoth Dobhair. The game was to take place at C.L.G. Gaoth Dobhair. Gaoth Dobhair's ground has two pitches being referred to as the "old" and the "new" pitch.
2. It is accepted by all parties that the choice of pitch ordinarily rests with the hosting club and indeed, for many years, matches had been played on the "old" pitch.
3. The referee had concerns that the sideline on the "old" pitch was too close to the wall and, from his point of view, constituted a safety hazard.
4. The mechanics of how the teams were informed of this, and what took place in the aftermath of the referee having raised his concerns is a matter of dispute for all parties. Indisputably, the game did not take place.
5. The referee filed a match report which was submitted to Donegal CCC. Donegal CCC met on 21st May to discuss the report and consider whether clarification

was needed. Donegal CCC sought clarification from the referee on 24th May as to whether the Claimant had any other concerns other than the sideline. (this date was provided to the Tribunal by Ulster HC.) The Referee responded to Donegal CCC, following which it was proposed and seconded to award the game to Gaoth Dobhair.

6. The Claimant was advised on 1st June of Donegal CCC's decision to award the game pursuant to Riall 6.43 T.O. 2018.
7. It appears that some correspondence followed from the Claimant. The Tribunal was not provided with this correspondence. A second email from Declan Ó Mairtín, Rúnaí CCC responds advising the Claimants that it has a right of appeal under Riall 7.11 (a)(2) T.O. 2018 within three days from the date and time of the notification to the Provincial Hearing Committee.
8. The Claimant appealed to Ulster HC on 4th June 2018. A hearing was arranged for 14th June 2018 and the parties were advised on 6th June 2018. Ulster HC heard the appeal on 14th June and decided that the Claimant failed to show a clear infringement or misapplication of Rule as prescribed under Riall 7.11(o) T.O. 2018.
9. Separately, in the immediate aftermath of the game, the referee involved in the fixture was interviewed on Owenea FM on 13th May 2018 during which interview the referee was questioned about the events of the night. Perhaps, the referee was put in a difficult and unexpected situation in the instant case. The Tribunal recommends that guidance be provided to referees in future that they should not comment in a public forum on any fixtures over which they have control. Such interference is both unreliable and unhelpful. (See Recommendations below).

10. The Claimant's case was that it raised the existence of an interview with the Ulster HC secretary by telephone in advance of the hearing and was advised not to raise it as it would not be considered. This is a matter that is disputed entirely by the secretary. The Tribunal was advised that a separate newspaper article, allegedly written by a Gaoth Dobhair player was circulating at that time.

The Tribunal finds that both parties gave their best recollection of the conversation in dispute and that neither party sought to mislead the Tribunal. The Tribunal believes that the parties were at cross purposes in relation to this issue.

11. The Claimant submitted a request for arbitration on 6 grounds. The Tribunal enquired the relief which was sought by the Claimant. The Claimant's position was that it wanted the game awarded to its club.

- 1) *In accordance with Riall 7.3(a)(1)(vi), we propose that the attached audio recording and transcript provide compelling evidence which contradicts the attached referee's report, upon which the decisions taken against C.L.G. Chill Chartha were based.*

The Tribunal notes that the incorrect rule is cited in this submission. The Rule to which the Tribunal believes the Claimant is referring is Riall 7.3(aa)(1)(vi). Regardless, the Tribunal finds that a determination on whether such evidence is compelling or otherwise is not a matter for the Tribunal to consider (for reasons outlined below).

- 2) *The notification we received from C.C.C. Dhún nan Gall did not quote any rule or regulation allegedly breached by C.L.G. Chill Chartha. C.C.C. Dhún nan Gall only quoted Rule 3.20(ii) T.O. 2018 in this notification.*

The Tribunal finds that this ground of claim is not factually correct and refers to page 34 of the booklet which clearly outlines Riall 6.43 T.O. 2018. Accordingly, this submission is dismissed.

- 3) *The referee's report, upon which the C.C.C.'s decision was based was not accompanied by team-lists, as outlined in Rule 6.44 (c)(i)*

The Tribunal finds that this submission is not relevant as the rule concerned places an obligation on the team to provide a list of players rather than on the referee. For this reason, this submission is dismissed.

- 4) *The referee's report, upon which the C.C.C.'s decision was based, did not state C.L.G. Chill Chartha refused to play the game, even though this is outlined in the notification received as the reason for awarding the game against C.L.G. Chill Chartha.*

The Tribunal finds that it was reasonable for Donegal C.C.C. to conclude from the report available to it that C.L.G. Chill Chartha had refused to play the game. Accordingly, this submission is dismissed.

- 5) *The referee did not give a three minute warning to the team captain/official in charge of C.L.G. Chill Chartha as outlined in Rule 6.6 (T.O. Part II)*

The Tribunal notes that the incorrect rule is cited in this submission. The Rule to which the Tribunal believes the Claimant is referring is Riall 6.5. This rule relates to dissent and is not relevant to the proceedings. Accordingly, this submission is dismissed.

- 6) *The Ulster Hearings Committee took the decision, pursuant to Rules 7.11(o) and 7.3 (u-aa); all of the T.O. 2018, that there was no clear infringement or misapplication of Rule by C.C.C. Dhún nan Gall which C.L.G. Chill Chartha do not accept.*

The Tribunal notes that C.L.G. Chill Chartha does not accept the decision of Ulster HC. The Tribunal's decision below refers.

DISCUSSION

12. The Tribunal comments that it is unfortunate that this matter was not resolved without recourse to hearing. The Tribunal accepts however, that parties are entitled to adopt the positions outlined.

CONCLUSION AND DETERMINATION

13. The Tribunal finds that C.C.C. Dhún na nGall cannot be faulted for the decision reached on 30th May 2018, which decision was notified to the Claimant on 1st June 2018. The Tribunal decides that the C.C.C. was entitled to arrive at this decision based on the report that was before it together with the clarification.
14. The Tribunal finds that the Claimant ought to have included in their appeal some reference to their belief that there was a contradiction between the referee's report (of which they became aware on 1st June) and the interview with the referee on 13th May 2018 on Owenea FM. Riall 7.11 (o) provides that an appeal is limited to matters raised in the appellant's appeal as originally lodged. The Tribunal finds this failure to be a fatal flaw. The Tribunal does not propose to adjudicate on the veracity or compellability of the interview.
15. The fact that the Claimant's position is that they raised the existence of the interview with the secretary of Ulster HC is in dispute. This is dealt with above. In any case, C.L.G. Chill Chartha did not raise the ambiguity, as the club saw it, or seek time to include the transcript of the interview in its appeal. For this reason, the Tribunal finds that Ulster HC cannot be faulted for how it processed the appeal.
16. The Claim is dismissed.

This is the unanimous decision of the Tribunal

RECOMMENDATION

17. The Tribunal recommends that guidance should be provided to referees to ensure that they do not engage in discussion in a public forum in relation to a fixture over which they had control or charge.

COSTS AND EXPENSES

18. In circumstances where there was no application for costs, the Tribunal makes no order in this regard.
19. 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: 12 July 2018

Date of Agreed Award: 17 July 2018

By email agreement on agreed date above.

Aoife Farrelly BL

Mark Curran BL

Declan Hallissey