

Disputes Resolution Authority

An Córas Eadrána

DRA 18 of 2019: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

SALTHILL KNOCKNACARRA GAA

Claimant

v.

GALWAY HEARINGS COMMITTEE

First Named Respondent

RAHOON NEWCASTLE HURLING CLUB

Interested Party

Michael Collins

Interested Party

Hearing: 30th May, Bridge House Hotel, Tullamore, Co. Offaly

Tribunal: Aoife Farrelly BL, Mr. Michael Moroney, Mr. James Clarke

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim is dismissed.

KEYWORDS: *Transfer within County – R6.5*
Appeals – R7.11, Whether Hearing Committee exceeded its jurisdiction, Scope and Hearing of Appeal, – R7.11(o)

LIST OF ATTENDEES:

Claimant - Salthill Knocknacarra GAA

Diarmuid O'hAodha
John McGettigan

Galway Hearings Committee

Padraig O'Callaghan
Tom O'Doherty
Pat Burke (Solicitor)
Con Crowley BL

Rahoon Newcastle Hurling Club

John Keane

Michael Collins

Michael Collins

FACTUAL BACKGROUND

1. The Claimant club brought an Application before the Disputes Resolution Tribunal by way of claim dated 3rd May 2019.
2. Michael Collins, the second named interested party transferred to the Claimant club in or about 2009. He played juvenile and adult hurling with the Claimant club until 2018.
3. In or about 3rd November 2018, he submitted a “request a transfer” to the First Named Interested party (Rahoon Newcastle) to Coiste Chontae na Gaillimhe, CLG. In accordance with Rule 6.5(e) Official Guide Coiste Chontae na Gaillimhe wrote to the Claimant club by email on 7th February 2019, inviting the club to advise if it had any objection to the application.
4. The Claimant club objected to the transfer by email dated 13th February 2019 citing the rules under which they objected together with factual grounds and in particular Rules 6.1, 6.3, 6.4 and Section 8 of the Galway County Bye-Laws 2018 as were required to be considered under Rule 6.5(e).
5. On 26th February 2019, Coiste Chontae na Gaillimhe wrote by email to the Second Named Interested Party (Michael Collins) advising him that his request had been rejected, as the Claimant club had objected to the application to transfer. Mr. Collins was advised of his right of appeal and the appropriate appeal form was attached.
6. Mr. Collins filed notification of his appeal by letter dated 28th February 2019. He submitted a further email dated 25th March 2019 setting out additional grounds of appeal and seeking further information regarding the refusal. Seamus Ó Gráda, Coiste Chontae na Gaillimhe replied by email dated 30th March 2019,

advising that a hearing would take place on 17/18th April 2019. Mr. Collins replied again on 8th April 2019.

7. On 17th April 2019, Padraig Ó Ceallachain, Runaí, Coiste Eisteachta Gaillimh, emailed the decision of the Respondent to Seamus Ó Grada, Coiste Chontae na Gaillimhe, advising him that the appeal was successful. This email stated as follows:

“Michael O Coileain (Cumann Bothar na Tra/Cnoc na Cathrach)
Appeal successful
County bye laws 5.1 and 5.2 apply”

8. On or about 18th April 2019, the Coiste Chontae na Gaillimhe notified Mr. Collins by email of this decision.
9. The Claimant club have appealed this decision to the Tribunal.
10. The Claimant club put forward reasons for the objection to the transfer request, which reasons are set out fully in the Request for Arbitration.
11. The Respondent, submitted a Form 2 response to the request for arbitration dated 10th May 2019 which response stated that it was not agreeable to the remedy claimed by the Claimant.

THE DECISION

12. The Tribunal considers that jurisdiction for the Respondent in hearing transfer appeals is clearly set out in Riail 6.5 and in particular 6.5 (f) of T.O. 2019, together with Riail 7.11 and in particular 7.11(o).

Rule 6.5 (f)

An appeal against a decision on a Transfer may be made in writing by an aggrieved party to the County Hearings Committee. It shall be made within three working days of the receipt of the decision, it shall state the grounds on which the appeal is being made and shall be signed by the appellant player or in the case of a Club, by its Secretary. Other formalities regarding submission of Appeal (e.g. provision of duplicate copy, fee) outlined in Rule 7.11 (f) to (i), are not applicable in this case.

All other relevant sections of Rule 7.11 shall apply. An appeal may only be upheld on the basis of the provisions outlined in Rule 7.11(o).

Rule 7.11 (o)

An Appeal shall be limited to the matters raised in the Appellant's Appeal as originally lodged and shall be upheld only where (i) there has been a clear infringement or misapplication of Rule by the Decision-Maker or (ii) the Appellant's right to a fair hearing has otherwise been compromised to such extent that a clear injustice has occurred. No determination of fact by the Decision-Maker shall be set aside unless shown to be manifestly incorrect.

13. The Tribunal considers that it was not the function of Galway Hearings Committee, acting as an appellate body to re-hear the matter *ab initio*. The Tribunal believes that the Hearings Committee would appear to have heard and decided the matter (and indeed this was confirmed by them during the hearing) as though it was the initial decision maker as opposed to the appeals committee tasked with reviewing the legality of the decision of the decision maker, in this case Galway CCC. The Hearings Committee's sole function was to satisfy itself that there was no basis for the decision that was made. The DRA jurisprudence on this point indicates that this is a high bar. However, the Tribunal notes that Respondent strayed into a "re-hearings" role and relied on County Bye-Laws 5.1 and 5.2 in the determination of this appeal. The Tribunal finds that this was not

within the Hearing Committee's jurisdiction and that it has acted outside the limitations of Rule 7.11(o). It has have therefore acted outside its jurisdiction.

CONCLUSION AND DETERMINATION

14. The Tribunal therefore decides that it must quash the decision of the Respondent as being *ultra vires* and directs that the player's appeal (Michael Collins's appeal) should be reheard by a newly constituted Hearings Committee, to be appointed by the Galway Management Committee, within 7 days of the hearing of this Arbitration and the hearing to be heard within a further 7 days.

15. This is the unanimous decision of the Tribunal

COSTS AND EXPENSES

16. The Tribunal directs that the DRA's expenses be discharged by the Respondent.

Date of Oral Hearing: 30th May 2019

Date of Agreed Award: 8th May 2019

By email agreement on agreed date above.

Aoife Farrelly BL

Michael Moroney

James Clarke