

Disputes Resolution Authority

An C6ras Eadr6na

DRA 24 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: 9th July, Tullamore Court Hotel, Tullamore, Co. Offaly

Tribunal: David Nohilly, Mr. Gerard Meehan BL, Mr. Eddie Keher

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim succeeds and the decision of Galway Hearings Committee is rescinded.

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
Alan Hassett

Galway Hearings Committee

Peter McHugh (Chairman)
Mattie Kilroy (Secretary)
Seamus O'Grady
Pat Kearney

Rahoon Newcastle Hurling Club

John Keane

Michael Collins

Michael Collins

FACTUAL BACKGROUND

1. This is the second time the Claimant club brought an Application before the Disputes Resolution Tribunal arising out of the same factual scenario.
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 appealed that decision to the Disputes Resolution Authority and a decision was made on the 30th May 2019 (decision reference 18/2019).
10. That Tribunal quashed the decision of Galway Hearings Committee and remitted the matter back for reprocessing before a newly reconstituted Galway Hearings Committee within 7 days.
11. The hearing of that appeal before the new hearings committee was held on the 17th June 2019.
12. On 18th June 2019, Mairtin MacGiolla Rua, Runaí, Coiste Eisteachta, 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”.
13. The Claimant club have now appealed that decision to the Disputes Resolution Authority.
14. The Claimant club put forward reasons for the objection to the transfer request, which reasons are set out fully in the Request for Arbitration.
15. The Respondent, submitted a Form 2 response to the request for arbitration dated 2nd July 2019 which response stated that it was not agreeable to the remedy claimed by the Claimant.

THE DECISION

16. The newly reconstituted Hearings Committee was confined to considering the February decision of the CCC under Rule 7.11 (o) T.O. 2019.
17. The evidence presented to us by the Respondents was that they were of the view that there was a clear infringement or misapplication of 5.1 and 5.2 of the Galway Bye Laws (2019) by the CCC. This was the stated reason for finding that the initial decision of the CCC was unfair and incorrect.
18. There is no evidence that the CCC decision was based on an application or misapplication of 5.1 and 5.2 'Permanent Residence' of the Galway Bye Laws (2019).
19. Rather it seems to be common case that the CCC based its decision on 8.7 'Transfers' of the Galway Bye Laws (2019).

CONCLUSION AND DETERMINATION

20. The Tribunal therefore decides that it must quash the decision *again* of the Respondents 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 secretary of Connaught Council, within 7 days of the hearing of this Arbitration and the hearing to be heard within a further 7 days.
21. We recognise the difficulty created by the absence of minutes from the February CCC decision. In dealing with that difficulty, the new Hearings Committee may wish to consider its options under Rule 7.11 (p) including the option to remit to a newly constituted CCC under Rule 7.11 (p)(ii) if deemed appropriate.
22. We direct that a copy of the February CCC minutes be furnished to all the parties five clear days in advance of the new hearing.

23. This is the unanimous decision of the Tribunal

RECOMMENDATION

24. We would always suggest mediation as a means of resolving disputes particularly, in cases of this nature but this ultimately is a matter for the parties concerned.

25. We would comment that an examination be conducted into the Galway Bye Laws to ascertain whether they serve the best interests of the Galway city Clubs

COSTS AND EXPENSES

26. The Tribunal directs that the DRA's expenses be discharged by the Respondents and that the Secretary refund the deposit paid to the Claimants.

Date of Oral Hearing: 9th July 2019

Date of Agreed Award: 25th July 2019

By email agreement on agreed date above.

David Nohilly

Gerard Meehan

Eddie Keher