

Disputes Resolution Authority

An Córas Eadrána

DRA 17 of 2020: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

CUMANN IOMÁNAÍOCHT MÁIGH CUILINN - (MOYCULLEN HURLING CLUB)

Claimant

v.

COISTE CHEANNAIS NA gCOMÓRTAISÍ GAILLIMH - (GALWAY CCC)

First Named Respondent

And

COISTE ÉISTEACHTA CONNACHT - (Connacht HC)

Second Named Respondent

And

CUMANN UARÁN MÓR MEARAÍ CLG - (ORANMORE MAREE GAA)

Interested Party

Hearing: 4th February 2021, Remotely

Tribunal: Mr. Aaron Shearer BL, Ms. Geraldine Fitzpatrick BL, Mr Jarlath Burns

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim is dismissed.

KEYWORDS: *Objections – whether the referee correctly recorded the match score – R7.10*

Exhaustion of all avenues of appeal – whether the Claimant had exhausted all avenues of appeal – whether arguments advanced by the Claimant before the Tribunal were advanced in the earlier appeal – R7.11(o), 7.13(d)

LIST OF REMOTE ATTENDEES:

Claimant – Moycullen Hurling Club

Michael Clancy BL
Frank Enright – Team Official

First Respondent – Galway CCC

Pat Kearney – Chairperson
Seamus O’Grady – Secretary

Second Respondent – Connacht Hearings Committee

Tod Ó Mahoney

Interested Party – Oranmore Maree GAA

Tom Carr

FACTUAL BACKGROUND

1. The Application before the Tribunal arises from a Group 2 Minor A Hurling Championship match between the Claimant Club and Oranmore Maree CLG on the 2nd September 2020. The specific matter in dispute was whether the referee of the match correctly recorded the scores and, in particular, whether he incorrectly recorded one of the points scored in the first half of the match. The referee's report indicated that the half-time score was 1-06 to 0-08 in favour of Oranmore-Maree. The records of various other people at the match indicated that the half-time score was 0-09 to 1-05 in favour of the Claimant Club. As matters transpired, a point one way or the other had a material bearing on whether or not the Claimant club qualified for the semi-finals of the competition.
2. The Claimant lodged an Objection to the award of the match to Oranmore Maree. The Objection was made to the first Respondent on the 4th September 2020 pursuant to Rule 7.10(a) of the Official Guide. Rule 7.10(n)(ii) of the Official Guide provides that an Objection may be upheld if *"a score allowed by the referee was not recorded by him or that a score was incorrectly recorded by him, thereby affecting the result of the Game"*.
3. The first Respondent heard the Objection over three separate evenings, on the 7th September, 10th September and 14th September. On both the 7th and 10th September the hearing was adjourned in order to seek certain clarifications from the referee. By decision dated the 15th September 2020 the first Respondent adjudged the Objection to be lost. The decision stated that *"in arriving at its decision [the first Respondent] considered all the points raised by both the Appellant and the Defending Party"*.
4. The Claimant appealed the decision of the first Respondent to the second Respondent. A letter, with grounds of appeal, was dated 17th September 2020.

The appeal was heard by the second Respondent on the 22nd September and a decision issued the following day. The decision found that there had been no misapplication of rule by the decision-maker.

DISCUSSION

5. The Claimant sought a number of reliefs but primary among them was a direction that the decision of the first Respondent be quashed. It advanced three grounds in support of the reliefs sought.
6. The Claimant cited Rule 6.43 of the Official Guide. This Rule provides that the Committee or Council in charge may award a game based on the outcome of an Objection. The Claimant argued that the first Respondent had misdirected itself in terms of its powers and jurisdiction, and specifically had made its decision based on the mistaken premiss that the first Respondent was obliged (regardless of other evidence) to adopt the referee's report. The Claimant cited in support of its position a line in the hearing minutes which states that "*the referee's report had to be adopted*".
7. The Claimant further cited Rule 7.3(aa)(1)(vi) of the Official Guide. That rule provides that the contents of a referee's report shall be deemed to be correct in relation to all matters of fact unless the finding of fact in question can be rebutted by unedited video or other compelling evidence which contradicts it. The Claimant argued that the first Respondent had misdirected itself in terms of the meaning of Rule 7.3(aa)(1)(vi), and specifically had made its decision on the mistaken premiss that the only evidence which was capable of being compelling evidence was unedited video evidence. In this regard the Claimant cited a detail in the hearing minutes wherein the Chairman of the first Respondent is reported to have stated that "*the only compelling evidence that was acceptable was unedited video evidence, otherwise the referee's report was to be taken as factual in all respects*".

8. Finally the Claimant argued that regardless of the success of its first two arguments, that the evidence presented by it before the first Respondent was of such a compelling quality that it met the threshold for setting aside the matters of fact set out in the referee's report.
9. In brief reply the first Respondent submitted that it had considered all the evidence presented to it and found no basis to uphold the Objection.
10. In its reply the second Respondent submitted that no breach of rule had been established by the Claimant in the appeal heard by the second Respondent. In addition, the second Respondent submitted that the two primary arguments advanced by the Claimant in the hearing before this Tribunal had not been canvassed by the Claimant in the appeal hearing before the second Respondent. The second Respondent referred the Tribunal to the contents of the appeal lodged by the Claimant on the 17th September 2020. The second Respondent submitted that the appeal made to it failed to advance as grounds of appeal the matters submitted to this Tribunal as bases for quashing the decision of the first Respondent.

DECISION

11. The Tribunal acknowledges that the taking of minutes at a disciplinary hearing is no easy or attractive task. However, in this case there is no doubt that certain infirmities in the minutes of the Objection hearing before the first Respondent have added substance to this application. Cited above are portions of the minutes which state a) that the only compelling evidence that was acceptable was unedited video evidence and b) that the referee's report had to be adopted. The Claimant has primarily based its claim on these minute entries.

12. However, the Tribunal has considered the minutes in their entirety and also considered the reason for two adjournments of the Objection hearing – namely, to seek clarifications from the referee. Together they make clear that the first Respondent did a) consider it had the power to set aside the result of the match and b) that it understood that evidence other than unedited video evidence was capable of being compelling. A specific quote, attributed to one member of the first Respondent Committee, stated that “*the Moycullen evidence was not compelling*”. Whilst a little less brevity might have been preferred, the remark does, in the view of the Tribunal, along with the balance of the minutes, reflect that the first Respondent understood the powers it was asked to exercise and that it had an understanding of its jurisdiction.
13. Where we find that the first Respondent did properly understand its powers and jurisdiction and where we find that all evidence submitted by the Claimant was fully considered, we find no basis to quash the decision made by the first Respondent. In relation to the third plank of the Claimant’s application, the Tribunal does not feel that there is any basis to categorise the decision of the first Respondent as one which flies in the face of reason or which is irrational.
14. A further matter arises. Specifically, the Tribunal finds that the Claimant failed to raise as grounds of its appeal to the second Respondent matters which it later submitted as bases for review before this Tribunal. The letter and grounds of appeal dated 17th September 2020 make out a different case to the one made before us. The Tribunal is conscious of the contents of Rule 7.11(o) which limit an Appellant’s appeal to the matters submitted in the appeal originally lodged. In circumstances where such a limitation is placed on matters dealt with at the appeal stage, the Tribunal is unwilling to consider grounds of review not canvassed at that stage of the Objection process under the Rules. The importance of a party properly engaging with, and properly exhausting the avenues of

redress available to it under the Rules is something which has been highlighted and restated in various decisions made by this body.

CONCLUSION AND DETERMINATION

15. For the reasons detailed above, the reliefs sought by the Claimant are refused and the decisions made by the first and second Respondents, dated 15th September 2020 and 23rd September 2020 are undisturbed

COSTS AND EXPENSES

16. The Tribunal directs that the DRA's expenses be discharged by the Claimant. The Tribunal further directs that the balance of the deposit lodged by the Claimant be reimbursed by the Secretary.

Date of Oral Hearing: 4th February 2021

Date of Agreed Award: 26th May 2021

By email agreement on agreed date above.

Aaron Shearer BL

Geraldine Fitzpatrick BL

Jarlath Burns