

# Disputes Resolution Authority

An Córas Eadrána

**DRA 09 of 2022: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010**

*Between:*

**SAIRSEALAIGH ARD NA RÍAGH - ARDNAREE GAA**

*Claimant*

*v.*

**COISTE EISTEACHTA MHUIGHEO - MAYO HC**

*First Named Respondent*

*And*

**JG C/O PETER GILL**

*Interested Party*

*And*

**CROSSMOLINA DEEL ROVERS GAA**

*Interested Party*

*And*

**COISTE CHEANNAIS NA gCHOMORTAISÍ MHUIGHEO - MAYO CCC**

*Interested Party*

**Hearing:** 5<sup>th</sup> May 2022, Remotely

**Tribunal:** Mr. David Curran, Ms. Geraldine Fitzpatrick BL, Páraic Duffy

Secretary to the DRA, Rory Hanniffy BL

**VERDICT:** The claim **succeeds**.

**KEYWORDS:**

First Club	Rule 6.5 Official Guide
County Bylaws	Juvenile
Transfer	Mayo HC
Residency	Mayo CCC
Parish	Appeal

**LIST OF REMOTE ATTENDEES:**

Claimant

Conor Sally - Solicitor  
Niall O'Donnell  
Johnnie O'Malley

First Respondent - Mayo HC

Tod O'Mahoney - Secretary  
Brendan Byrne - Chairperson  
Craig Middleton - Member

Interested Party - Crossmolina Deel Rovers GAA

Michael Hegarty

Interested Party - JG

Peter Gill

## FACTUAL BACKGROUND

1. The matter comes before this panel appointed by the Secretary of the DRA to hear an appeal of a decision made by the Mayo Hearings Committee (“Mayo HC”) made on 7<sup>th</sup> April 2022. The decision of Mayo HC was made on foot of an appeal made by the interested party referenced herein Mr Peter Gill. Mr Gill made an application for his son “JG” to be transferred to Crossmolina Deel Rovers (“Crossmolina”). This application was dated 18<sup>th</sup> February 2022.
  
2. “JG” was desirous to transfer to Crossmolina from the Claimant as the family were moving some distance to Crossmolina. It was stated on the transfer form that the move was imminent. Salient extracts of the agreed timeline of events are outlined below.
  - 18/02/22 Transfer request from JG
  - 18/02/22 Reply from Ardnaree Sarsfields Secretary
  - 25/02/22 Transfer signed by Crossmolina Secretary
  - 26/02/22 Ardnaree Sarsfields Secretary refuses to sign Transfer
  - 26/02/22 JG sends transfer request to Mayo County Secretary
  - 02/03/22 Notification of Mayo CCC hearing
  - 08/03/22 Mayo CCC hearing
  - 15/03/22 Decision from Mayo CCC
  - 16/03/22 JG notified of decision and indicates his intention to appeal
  - 20/03/22 Mayo CCC sends Mayo Hearings Committee JG intention to appeal
  - 31/03/22 Mayo hearings committee notifies of hearing date for 06/04/22
  - 03/04/22 JG sends in his appeal
  - 06/04/22 Link for meeting on 07/04/22 forwarded
  - 07/04/22 Mayo hearings Committee appeal hearing
  - 08/04/22 Mayo Hearings Committee sends out decision with the full reasoned decision to follow at later

- 13/04/22 Full reasoned decision forwarded
  - 15/04/22 Ardnaree Sarsfields request Arbitration from DRA.
3. At the hearing of the Mayo CCC, the committee determined that the transfer could not be granted as the applicant for transfer had not met the qualification for such a transfer, that being that he must be permanently resident in the new family home for a period of eight (8) weeks prior to submission of the transfer. The Mayo CCC stated that based on the evidence before it, there was nothing to suggest this was the case.
  4. The Applicant to transfer "JG" via his father Peter Gill (interested party herein) signalled their intention to appeal the decision of the Mayo CCC to the Mayo HC as per correspondence 16<sup>th</sup> March 2022. The appeal is subsequently sent to the Mayo HC with some accompanying papers. The hearing subsequently takes place on 7<sup>th</sup> April. Form 2 from the Respondent as well as the position as advance by the Claimant herein are informative as to what took place at the hearing. Further, oral evidence from the representative of Mayo HC was instructive and very helpful in allowing the panel to understand the proceedings from the appeal hearing.

## **DISCUSSION**

5. A preliminary issue was brought to the attention of the panel via the secretary of the DRA. It was indicated prior to the hearing that Mr Gill, father of the transfer applicant and interested party herein wished to address the panel. The Chairman of the DRA panel invited both the representatives of the Claimant and Respondent for any submissions they might wish to make on the somewhat unusual request. Neither party raised any objections but sought to reserve a right

of response if matters called for same. The Chairman of the panel also brought a further preliminary issue to the attention of all parties attending the hearing. As the application involved minor children, consent would be required from the legal guardians of the children to allow certain discussions to take place. Mr Gill so provided such consent requested. He was then permitted by the panel to address the panel. However, he was reminded of his status at the hearing and that the DRA panel was an appellate body and that it was limited in what it could hear and receive by way statement or evidence. The panel was addressed on the issue of the validity of the matter coming before the panel based on the time periods afforded for such appeals to be lodged. In essence the Claimant was out of time in submitting their appeal to the DRA.

6. Mr Sally, solicitor representative of the Claimant exercised his right of reply and outlined in succinct terms why the matter was correctly before the panel. He stated that the written decision from Mayo HC was not received until 13<sup>th</sup> April and that the appeal was submitted on 15<sup>th</sup> April and well within the periods afforded for such appeals to be tendered. He further corroborated his client's position by referencing an email from his client to Mayo HC seeking a copy of the written decision as they had already "flagged" their intention to bring the matter further. It was contented that rule 6.5 T.O was complied with in all respects by the Claimant.
7. after an interval for the panel to deliberate, it was decided unanimously that the appeal was properly before the DRA and was made within the time frame for such appeals to be made.
8. With respect to the substantive appeal the panel were directed to the Mayo County Bylaws and the transfer application by Mr Sally. The decision of Mayo CCC was discussed and how same was reached in the first instance. The remit and actions of Mayo HC were ventilated before the panel by Mr Sally also. In essence, it was submitted that the Mayo CCC had not erred in their decision in applying the applicable bylaws in force for Mayo and given the factual matrix of

the transfer as presented to them applied the rules of the Official Guide and the Mayo County Bylaws correctly in refusing the transfer. He further stated on behalf of his client that they were entitled to refuse any request for a transfer from their club and were merely enforcing the clubs' entitlements under the rules and bylaws.

9. Mr O'Mahony in reply stated that he accepted the contents of the form 2 reply submitted to the DRA on behalf of the Mayo HC and indicated in response to points raised by the Claimant that the formality which applies to disciplinary matters does not extend necessarily to transfers and indeed transfers involving children. He further outlined that Mayo HC were very mindful that the transfer applicant was a juvenile and did not wish to see him not partake in football for the rest of the season. The position was also advanced that the Mayo CCC in arriving at their decision misapplied county bylaws 6&9 and when read together do not necessarily restrict a transfer.
10. The Claimant in response to the Mayo HC evidence stated that rule 7.11(n) should apply and that the Mayo HC took a decision contrary to the rules of the association and the issues raised at appeal before them. The Mayo HC went ultra vires their remit and the application of the rules as per rule 6.5 and rule 7.11 respectively.

## **DECISION**

11. The panel are unanimous in their determination that the Mayo HC went beyond their remit and powers vested in them with and allowed the decision of the Mayo CCC to be substituted by their own decision. Whilst it may have been a well-intentioned decision, it was nevertheless incorrect. The Mayo HC had no function to make such a decision. It could only affirm the decision as made by the Mayo CCC or overturn same and remit back to Mayo CCC for reprocessing.
12. Notwithstanding paragraph 8 above, it is noteworthy that the form 2 response from the Mayo HC to the herein referral records acceptance of the Mayo CCC

decision wherein it states “The Respondent accepts that Mayo CCC was correct to refuse the transfer and that an imminent change of permanent residence is not a valid reason.”

13. The Mayo County Bylaws for 2022 are clear in what is required for the tendering of a transfer within each calendar year. The transfer must be submitted by 15<sup>th</sup> March as per bylaw rule 9(b). Bylaw 9(g)

## **CONCLUSION AND DETERMINATION**

14. The Decision of Mayo HC to overturn the decision of Mayo CCC was incorrect. Mayo HC were also incorrect in substituting their own decision for that of Mayo CCC. The hearing before the Mayo HC was an appeal and not a “De Novo” or new hearing.
15. The Mayo County Bylaws are clear, a player must submit their transfer before 15<sup>th</sup> March. This submission is further caveated in that any application can only be made to transfer to a new club on the basis of permanent residence if the applicant seeking the transfer has resided in the new permanent address for a consecutive period of 8 weeks prior to the submission of the said transfer. The draftsmen of the Mayo County Bylaws were aware of the application of transfers to juveniles when drafting the county bylaws. It is not open to the Mayo HC to try to interpret that meaning of effect of the bylaws in the alternative.
16. The transfer as submitted did not comply with the Mayo County Bylaws in that the applicant for the transfer did not meet the permanent residency requirement which must accompany the transfer.
17. Mayo CCC were correct in their interpretation of the county bylaws in refusing to sanction the transfer as requested. The grounds for such a determination were correct.

18. Notwithstanding the above, issues arose during the course of this hearing with regard to the validity of the application before this panel. The argument was advanced by the interested party Mr Gill, consent for Mr Gill to speak to the subject matter being sought from both the Claimant and the Respondent. The panel find as a fact that the appeal with the Claimant was tendered within time giving cognisance to the date receipt of the written decision of the Respondent by the Claimant.

#### **COSTS AND EXPENSES**

19. The Tribunal directs that the DRA's expenses be discharged by Respondent in this matter. Such costs to be notified to the Respondent by the Secretary of the DRA. The Tribunal further directs that the deposit lodged by the Claimant be reimbursed by the Secretary.

**Date of Hearing:** 5<sup>th</sup> May 2022

**Date of Agreed Award:** 16<sup>th</sup> November 2022

**By email agreement.**

**David Curran Solicitor**

**Geraldine Fitzpatrick BL**

**Páraic Duffy**